FEDERAL REGISTER

VOLUME 5 NUMBER 137

Washington, Tuesday, July 16, 1940

The President

EXECUTIVE ORDER

TRANSFERRING CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR AND RESERVING THEM AS A PART OF THE NECEDAH NATIONAL WILDLIFE REFUGE

WISCONSIN

By virtue of the authority vested in me by section 32 of Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), and as President of the United States, the following-described lands, comprising one acre, more or less, in Juneau County, Wisconsin, acquired under the authority of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), and transferred by Executive Order No. 7908 of June 9, 1938,[1] to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the said Bankhead-Jones Farm Tenant Act, are upon recommendation of the Secretary of Agriculture, hereby transferred from the Secretary of Agriculture to the Secretary of the Interior and, subject to valid rights, added to and reserved as a part of the Necedah National Wildlife Refuge, established by Executive Order No. 8065 of March 14, 1939, as amended by Executive Order No. 8319 of January 15, 1940: [2]

Fourth Principal Meridian

T. 18 N., R. 3 E.,
Sec. 13, that part of SE¼SE¼ bounded by the following-described lines: Beginning at a stake on the north line of the right-of-way of the Chicago and Northwestern Railway, formerly known as the Princeton and Western Railway, said stake bearing north 33 degrees east, 161 feet from the corner of Block 1, Original Plat of Necedah, said corner of Block being at the intersection of Main and First Streets (formerly known as Hilleboe's corner); thence north 9 degrees 15 minutes east 155 feet to a stake in the pond; thence north 77 degrees 30 minutes west 122 feet to a stake in the pond; thence south 61 degrees 30 minutes west 209 feet to a stake in the edge of the pond 6 feet north of dead birch tree; thence south 11 degrees 45 minutes west 52 feet to a stake on the north side of the railway right-of-way; thence south 84 degrees east along the right-of-way 292 feet to the point of beginning. (Magnetic variation for survey zero, November 24, 1898)

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 11, 1940.

[No. 8479]

[F. R. Doc. 40-2909; Filed, July 12, 1940; 1:26 p. m.]

[1] 3 F.R. 1389.
[2] 4 F.R. 1241; 5 F.R. 207.

EXECUTIVE ORDER

EXCLUDING CERTAIN LAND FROM THE CHUGACH NATIONAL FOREST AND RESERVING IT FOR TOWNSITE PURPOSES

ALASKA

By virtue of the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U.S.C., title 16, sec. 473), it is ordered that the tract of public land in Alaska lying within the following-described boundaries be, and it is hereby, excluded from the Chugach National Forest:

Turnagain Arm: Beginning at the triangulation point "Grass" (located by the Coast & Geodetic Survey and described as follows:

Latitude 60°49'43.24"; longitude 149° 01'33.78"; Grass is in the meadow on the south side of the head of Turnagain Arm, opposite Twentymile River trestle, 165 paces outside of the line of alders. In the edge of the alders a lone leaning spruce, 1 foot in diameter bears S. 8° W. Station mark is a metal plate set in cement at the surface of the ground. Reference marks are spruce stakes, projecting one foot from the surface.

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THE PRESIDENT

RULES, REGULATIONS, ORDERS

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FEDERAL REGISTER

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Tree	Az. 00-00	Dist. m.	Sta.	Brs.
Ref. mk. 1	85-17	18.7	S.	15° W.
" " 2	352	22.1	S.	80° E.)

and running due south 2½ miles, thence due east 3 miles, thence due north approximately 4¾ miles to a point due east of the triangulation point "Central" (located by the Coast & Geodetic Survey and described as follows:

Latitude 60°51'40.77"; longitude 149°01'52.10"; Central is on the most easterly point on the north side of Turnagain Arm that can be seen from Kern Creek. It is just east of Mile 67 on the Alaska Northern Ry. The station mark is a metal plate set in cement at the surface of the ground on the highest part of the grassy elevation on the upper side of the railroad cut.

Reference mark No. 1 is a nail in a blazed spruce back of the signal. No. 2 is a nail in a blazed spruce to the west.

Land	Az. 00-00	Dist. m.	Sta.	Brs.
Ref. mk. 1	280-27	16.8	S.	40° W.
" " 2	207-19	18.8	S.	30° E.),

thence due west approximately 3⅛ miles to the above mentioned triangulation point (Central), thence south 4°21'2" east approximately 2¼ miles to point of beginning; containing approximately 9,300 acres.

And by virtue of the authority vested in me by the act of March 12, 1914, 38 Stat. 305, 307 (U.S.C., title 48, sec. 303), the above-described tract of land is hereby withdrawn from settlement, location, sale, entry, or other disposition, and reserved, under such regulations as have been or may hereafter be prescribed, for townsite purposes in connection with the construction and operation of railroad lines as authorized by the said act.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 12, 1940.

[No. 8480]

[F. R. Doc. 40-2913; Filed, July 13, 1940; 11:00 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER IX—SURPLUS MARKETING ADMINISTRATION

[0-36]

PART 936—MARKETING ORDERS

ORDER AMENDING THE ORDER REGULATING THE HANDLING OF FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN THE STATE OF CALIFORNIA*

Whereas, the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary"), pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended (hereinafter referred to as the "act"), issued, effective on and after 12:01 a. m., e. s. t., May 29, 1939, an order [1] regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California (hereinafter referred to as the "order"); and

Whereas, the Secretary, having reason to believe that the issuance of certain amendments to the aforesaid order, with respect to the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, would tend to effectuate the declared policy of the act, gave due notice of a hearing [2] to be held in Sacramento, California, on March 27, 1940, and such hearing was held, beginning on the 27th day of March 1940, in Sacramento, California, on said proposed amendments, and at said hearing all in-

*Sections 936.2, 936.3, 936.4, 936.5, 936.9, and 936.10, respectively, as hereby amended, issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. § 601 et seq. (Supp. IV, 1938).

[1] 4 F.R. 2135.

[2] 5 F.R. 1094.

terested parties were afforded an opportunity to be heard with regard to the proposed amendments to said order; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearing and the record thereof, said findings being in addition to the findings made upon the evidence introduced at the original hearing on said order and being in addition to the other findings and determinations made prior to or at the time of the issuance of said order (all of said findings and determinations are hereby ratified and affirmed, except as such findings may be in conflict with the findings hereinafter set forth):

(1) that the method of regulating shipments of fruit, as defined in the aforesaid order, by prohibiting unfair trade practices and unfair methods of competition, as provided in said order as hereby amended, and the method of regulating shipments of such fruit by grades and sizes, as provided in said order as hereby amended, and the method of regulating daily shipments, as provided in said order as hereby amended, and the requirements, contained in said order as hereby amended, regarding the filing of reports by handlers are fair and equitable;

(2) that the aforesaid order as hereby amended and all of the terms and provisions of said order as hereby amended are fair and equitable and will tend to effectuate the declared policy of the act, with respect to fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, by establishing and maintaining such orderly marketing conditions therefor as will establish prices to the producers thereof at a level that will give such fruit a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such fruit in the base period, January 1, 1920, to December 31, 1928, both dates inclusive, and by protecting the interest of the consumer by (a) approaching the level of prices, which it is declared in the act to be the policy of Congress to establish, by gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to the producers of such fruit above the level which it is declared in the act to be the policy of Congress to establish; and

(3) that said order as hereby amended is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, in order to effectuate the declared policy of the act, and the issuance of several orders applicable to any subdivision of the regional marketing area or regional production area, included in said order as hereby amended, would not effectively carry out the declared policy of the act, and the terms and provisions of said order as hereby amended prescribe, so far as practicable, such different terms, applicable to different production and marketing areas, as are necessary in order to give due recognition to the differences in production and marketing of such fruit in such areas; and

Whereas, the Secretary finds:

(1) that the agreement amending the marketing agreement regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, executed by the Secretary on the 13th day of July 1940, upon which the aforesaid public hearing was held in Sacramento, California, was signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the fruit covered by said order as hereby amended), who, during the 1939 season, handled not less than fifty (50) percent of the volume of plums, and not less than fifty (50) percent of the volume of Elberta peaches, and not less than fifty (50) percent of the volume of fresh Bartlett pears, grown in the State of California, marketed during said season in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce;

(2) that the aforesaid agreement amending the said marketing agreement was executed by handlers who were signatory parties to said marketing agreement and who during the preceding marketing season shipped not less than sixty-seven (67) percent of the volume of plums, and not less than sixty-seven (67) percent of the volume of Elberta peaches, and not less than sixty-seven (67) percent of the volume of fresh Bartlett pears, grown in the State of California, marketed, by all of the signatory handlers, during said season in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce;

(3) that the aforesaid order as hereby amended regulates the handling of such fruit in the same manner as the aforesaid marketing agreement, as amended, and that said order as hereby amended is applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement, as amended;

(4) that the issuance of this order amending the aforesaid order is favored by producers who, during the period from January 1, 1939, to December 31, 1939, both dates inclusive (which is hereby determined to be a representative period), produced for market within the State of California at least two-thirds of the volume of fresh Bartlett pears, plums, and Elberta peaches, respectively; and

(5) that the issuance of this order amending the aforesaid order is favored by at least two-thirds of the producers of fresh Bartlett pears, and by at least two-thirds of the producers of plums, and by at least two-thirds of the producers of Elberta peaches who, during the period from January 1, 1939, to December 31, 1939, both dates inclusive (which is hereby determined to be a representative period), were engaged, within the production area specified in the aforesaid order as hereby amended, in producing for market fresh Bartlett pears, plums, and Elberta peaches, respectively:

Now, therefore, it is hereby ordered, pursuant to the provisions of the aforesaid act, that such handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such fruit, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as hereby amended; and the aforesaid order is hereby amended as follows:

1. Delete § 936.2 (c) (2) and insert, in lieu thereof, the following:

(2) A person nominated by any commodity committee for membership on the Control Committee shall be an individual person who produced, during the previous season, at least fifty-one (51) percent of the total fruit shipped by the respective person during such season: *Provided, however,* That a person nominated by any commodity committee for membership on the Control Committee may be an individual person who represents an organization which produced, during the previous season, at least fifty-one (51) percent of the fruit shipped by such organization during such season. Each member of each commodity committee shall have only one vote in the selection of nominees for membership on the Control Committee.

2. Delete the first sentence in § 936.2 (i) and insert, in lieu thereof, the following:

The nominations for membership on the Bartlett Pear Commodity Committee shall be made by the growers of Bartlett pears in the aforesaid districts who are present in person at a general meeting in each district or districts as specified herein; and at each such meeting each grower of Bartlett pears shall be entitled to vote only if present and to cast only one vote on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives.

3. Delete the last sentence in § 936.2 (p) and insert, in lieu thereof, the following:

The members of each commodity committee may receive compensation in an amount not in excess of five dollars ($5.00) per diem for attendance at each meeting of the respective committee; and, in addition to said per diem the

aforesaid members may be reimbursed for necessary expenses actually incurred in attending each such meeting. The members of each commodity committee may be reimbursed for necessary expenses actually incurred in performing such services, if any, in addition to attending said committee meetings as may be authorized by the proper committee in accordance with the provisions of this order; and, in addition to reimbursement for the said necessary expenses actually incurred, such members may receive compensation in an amount not in excess of five dollars ($5.00) per diem as payment for performing such additional services. The grower members of the Control Committee may receive per diem compensation and additional reimbursement according to the same rules and limitations set forth in this paragraph relative to the members of each commodity committee.

4. Delete § 936.2 (s) (4) and insert, in lieu thereof, the following:

(4) to employ, subject to the approval of the Secretary, a confidential employee or employees who shall perform the services required of the confidential employee or employees by the provisions of § 936.9 hereof; to employ such other employees as may be necessary, including a manager who shall, among other duties, act as the secretary of the Control Committee, all commodity committees, and the Sales Managers' Committee herein, and such manager may be designated, subject to the approval of the Secretary, as confidential employee; to determine the salary and duties of such manager and other employees; to authorize, if the committee deems such to be necessary, the manager, for and on behalf of the committee, to employ temporarily, subject to such limitations and qualifications as may be specified by the committee, such other persons as may be deemed necessary and to determine the respective salaries, which shall be reasonable and within the limitations of the budget and such other limitations as may be prescribed by the committee, and define the respective duties of such employees;

5. Delete § 936.2 (t) (5) and § 936.2 (t) (6) and insert, in lieu thereof, the following:

(5) to establish such other committees to aid the commodity committee in the performance of its duties hereunder as may be deemed advisable; and, among other things, to provide, if the respective committee deems proper, that growers in any respective district may establish a Growers' Advisory Committee to be selected by the growers in the respective district, and said Growers' Advisory Committee may submit suggestions and advice to the members of the respective commodity committee;

(6) to authorize, whenever the committee deems it necessary, an employee or employees (employed pursuant to § 936.2 (s) hereof) to perform any duties of the respective committee, subject to the exceptions and limitations set forth in § 936.4 (c) hereof: *Provided*, That such authorization by the respective committee shall specify the employee or employees and state definitely the limitation or limitations of the authority thus vested in the respective employee or employees: *Provided further*, That the committee shall not authorize any employee or employees to perform (i) the duties of the committee relating to the recommendations to the Secretary for the regulation of shipments pursuant to §§ 936.3, 936.4, or 936.5 hereof, or (ii) the duties or authority of the committee relating to the establishment of rules and regulations pursuant to the provisions and subject to the limitations set forth herein: *Provided further*, That the committee may retain concurrent authority with the employee or employees thus empowered to perform certain functions; and

(7) each season prior to any recommendation to the Secretary for a regulation of shipments pursuant to §§ 936.3, 936.4, or 936.5 hereof to determine the marketing policy to be followed for the respective commodity during the ensuing season and to submit such policy to the Secretary, said policy report to contain, among other provisions, information relative to the estimated total production and shipments of the fruit by districts, information as to the expected general quality and size of fruit, possible or expected demand conditions of different market outlets, supplies of competitive commodities, such analysis of the foregoing factors and conditions as the committee deems appropriate, and the type of regulations of shipments expected to be recommended for the respective fruit.

6. Delete § 936.3 and insert, in lieu thereof, the following:

SEC. 3. *Regulation of Unfair Trade Practices and Unfair Methods of Competition.* The shipment of Elberta peaches packed in such manner as to be deceptive regarding the quantity of fruit therein or the size of fruit therein, or the shipment of Elberta peaches in a package or other container that is deceptive regarding the quantity of fruit in such package or other container, or deceptive regarding the size of fruit in such package or other container, is an unfair trade practice and an unfair method of competition; and the shipment of Elberta peaches packed as aforesaid or in packages or containers as aforesaid is prohibited. Whenever the Elberta Peach Commodity Committee deems it advisable, in order to effectuate the declared policy of the act, to specify or describe packs, packages, or containers that are deceptive regarding the quantity or size of Elberta peaches therein, such committee shall so recommend to the Secretary; and in the event the committee makes a recommendation as aforesaid to the Secretary, the committee shall furnish to the Secretary the information and facts on which such recommendation is predicated. Based upon the aforesaid recommendation and information submitted by the committee, or upon other information available to the Secretary, the Secretary may issue an order or orders specifying or describing packs, packages, or containers that are deceptive regarding the quantity or size of fruit therein, and are, therefore, prohibited by the provisions of this section as being unfair trade practices and unfair methods of competition. A copy of each such order, issued by the Secretary pursuant to this section, shall be forwarded promptly to the Elberta Peach Commodity Committee; and thereupon said committee shall give such notice thereof as may be reasonably calculated to bring such order to the attention of all interested parties.

7. Delete § 936.4 (c) and insert, in lieu thereof, the following:

(c) *Exemptions.* (1) In the event of a regulation of shipments pursuant to the provisions in this section, the commodity committee shall, whenever it finds that one-half (½) of the estimated shipments for the marketing season of any variety or varieties of fruit so regulated in any district or districts has been shipped, announce the procedural rules, adopted by the respective commodity committee, pursuant to which exemption certificates will be issued to growers, or said commodity committee may, prior to such time, announce procedural rules pursuant to which exemption certificates will be issued to growers. Whenever the commodity committee finds that one-half (½) of the estimated shipments for the marketing season of any variety or varieties of fruit so regulated in any district or districts has been shipped, it shall, thereupon and thereafter, or prior thereto it may, grant an exemption certificate to any grower who submits proof satisfactory to said committee to the effect that the respective grower will be prevented because of such regulation from shipping as large a percentage of his crop of such variety of fruit as the average of all growers of such variety or varieties in his district. In the event the respective commodity committee shall determine and report to the Secretary that, by reason of general crop failure or other unusual conditions within a particular district or districts, it is not feasible and would not be equitable to issue exemption certificates to growers within that district on the basis set forth in the preceding sentence, the respective committee may, by resolution duly adopted, specify that an exemption certificate will be issued to any grower who submits proof satisfactory to such committee to the effect that the respective grower will be prevented because of such regulation from shipping as large a percentage of his crop of such variety of fruit as the average of all growers of such variety or varieties in

the number or group of districts specified or enumerated in the resolution thus adopted by the respective committee. In considering whether an exemption certificate should be issued and, if so, the quantity of fruit which should be thus exempted, the committee shall take into consideration only the sizes or grades of fruit which would be shipped in the absence of any regulation. Such exemption certificate shall permit the respective grower to whom the certificate may be issued to ship or have shipped a quantity of the restricted or prohibited grades or sizes sufficient to permit the respective grower to ship or have shipped as large a proportion of his crop of such variety of fruit as the average for all growers in his district: *Provided, however,* That, in accordance with the provision heretofore set forth in this paragraph, the committee may prescribe that the average for all growers in a group or number of districts shall be considered instead of the average for all growers in the district from which an application for an exemption is submitted.

(2) The respective commodity committee may authorize an employee or employees to receive applications for exemption certificates, make the necessary investigation in regard to whether an exemption certificate should be issued and, if so, the quantity of fruit which would be thus exempted, and issue for and on behalf of the respective committee an exemption certificate: *Provided, however,* That the committee shall not authorize any employee or employees to perform any of the following duties or functions: (i) determine the grades or sizes of fruit which would be shipped in the absence of any regulation; (ii) determine for any district or districts the percentage that the quantity of a particular variety or varieties of fruit permitted to be shipped pursuant to regulation is of the quantity which would have been shipped in the absence of regulation; or (iii) designate a group or number of districts to be used as the area which, because of general crop failure or other extraordinary conditions within a particular district, shall be used in calculating or determining the average percentage of a variety or varieties of fruit shipped by all growers, as aforesaid.

(3) If any grower is dissatisfied with the determination of an employee or employees who have been authorized to issue exemption certificates and who have exercised jurisdiction with regard to the application submitted by the respective grower, such grower may appeal to the respective commodity committee: *Provided,* That such appeal must be taken promptly after the determination by the respective employee or employees. If any grower is dissatisfied with the determination of the commodity committee with respect to an exemption certificate or the application for an exemption certificate, or with regard to an appeal by said grower to said committee from the action of an employee or employees as aforesaid, such grower may appeal to the Secretary: *Provided,* That such appeal shall be taken promptly after the determination by the respective commodity committee. Upon an appeal as aforesaid to the Secretary, the Secretary may modify or cancel the issuance of an exemption certificate or may authorize the issuance of an exemption certificate. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination made by the Secretary with respect to an exemption certificate or the application for an exemption certificate shall be final.

(4) Each commodity committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of fruit thus exempted, and such additional information as may be requested by the Secretary.

8. Delete the words "and approved by the Secretary" in § 936.5 (a) (1).

9. Delete the words "approved by the Secretary" in § 936.5 (a) (4) and § 936.5 (a) (5).

10. Insert the words "at such shipping point" after the last word in § 936.5 (a) (6) and prior to the period at the end of said § 936.5 (a) (6).

11. Delete the words "and approved by the Secretary" in § 936.5 (a) (12).

12. Delete § 936.5 (c) and insert, in lieu thereof, the following:

(c) *Establishment of regulation.* If upon the basis of such information and recommendation pursuant to the provisions of § 936.5 (b) hereof, or upon other information available to the Secretary, the Secretary shall find that the limitation of daily shipments, as provided in this section, during a regulation period will tend to effectuate the declared policy of the act, he shall establish a regulation period and determine the total advisable quantity of such fruit to be shipped daily to all markets, outside of the State of California and on the Continent of North America, during such period; and the Secretary shall promptly notify the respective commodity committee of the establishment of the regulation period. The commodity committee shall give such notice of the establishment of the regulation period as may be reasonably calculated to bring such regulation to the attention of all interested persons. A shipper who has made no shipment from a particular shipping point during the particular season, and who elects regulation at shipping point as provided in this section, may apply to the commodity committee for exemption from regulations pursuant to this paragraph of this section. The commodity committee shall, if it finds that the shipper who has made such application would otherwise be unable to begin operations at said shipping point, exempt such shipper from such regulation pursuant to this paragraph of this section for a period not to exceed seventy-two (72) consecutive hours following the packing of the first fruit by such shipper at such shipping point.

13. Delete the first sentence in § 936.5 (d) and insert, in lieu thereof, the following:

Each shipper desiring to ship fruit, during a regulation period, shall promptly elect whether such fruit shall be regulated at railroad assembly points, cold storage assembly points, or shipping point; and each shipper shall promptly advise the respective commodity committee with regard to the choice thus made by the respective shipper.

14. Delete the first sentence in § 936.5 (f) and insert, in lieu thereof, the following:

The allotment percentage for a particular fruit for a particular day, during a regulation period established pursuant to the provisions of this section, shall be the percentage obtained by dividing the total advisable quantity of such fruit to be shipped that day, determined by the Secretary pursuant to the provisions of § 936.5 (c) hereof, by the total available of such fruit on the second day prior to such particular day, as computed by the respective commodity committee pursuant to the provisions of this section. In no case shall the allotment percentage exceed one hundred (100) percent.

15. Delete § 936.5 (g) and § 936.5 (h) and insert, in lieu thereof, the following:

(g) *Determination of allotments at shipping point.* The allotment of such fruit, for a particular day, for any shipper who has elected to have his shipments regulated at shipping point, shall be the result obtained by applying the allotment percentage for such day, calculated as provided in this section, to such shipper's component part of the available used in determining the allotment percentage. No shipper whose fruit is regulated at shipping point shall ship from shipping point fruit in excess of his allotments: *Provided, however,* That the shipment of less than one (1) carload in excess of a shipper's allotment shall not be a violation of the provisions hereof if such shipper advises the respective commodity committee, with regard to such overshipment, by not later than the end of the day following the day on which such overshipment was made. The quantity of fruit shipped in excess of the allotment, as permitted pursuant to the provisions of this paragraph, shall be offset by a reduction of an equal amount from the respective shipper's allotment for the next succeeding day on which such shipper ships, or, if such allotment is less than the overshipment, then such excess shipment shall be deducted from succeeding allotments until such excess shipment has been entirely offset. If any shipper ships less than his allotment for a particular day, such

shipper may ship, only during the next day in which such shipper is entitled to an allotment, a quantity equal to such undershipment in addition to his allotment: *Provided*, That such undershipment is promptly reported to the respective commodity committee. The commodity committee shall determine, pursuant to the provisions hereof, each shipper's allotment, and advise each shipper relative to his allotment. Except as provided in this paragraph and in § 936.5 (c) hereof, and § 936.7 hereof, no shipper shall ship fruit in excess of his allotment. The commodity committee may, at such time and in such manner as it may prescribe in rules and regulations, require any shipper to account to it for the disposition of the quantity of fruit in excess of the respective shipper's allotment. Fruit shipped pursuant to allotments at shipping points shall not be detained at assembly points. Each day on which any shipper who has elected to have his shipments regulated at shipping point shall fail to pack for shipment and ship fruit under the terms of this paragraph shall, with respect to such shipper, be excluded from all calculations under this paragraph or under § 936.5 (f) hereof.

(h) *Shipments from assembly points.* The quantity of fruit which may be shipped, on any day during a regulation period, except the first two days thereof, from all assembly points by shippers who have not elected to have their fruit regulated at shipping points shall be the total advisable quantity to be shipped that day, determined by the Secretary pursuant to the provisions of § 936.5 (c) hereof, less (1) the quantity of fruit shipped pursuant to § 936.5 (g) hereof by shippers electing regulation at shipping points and arriving at railroad assembly points in time to depart that day, and (2) the quantity of fruit which was shipped by boat, to destinations on the Continent of North America, by all shippers on such prior day as the respective commodity committee may prescribe in rules and regulations approved by the Secretary: *Provided*, That if the quantity of fruit that is actually shipped on a particular day is in excess of or less than the quantity advisable for shipment on the respective day then, in such event, the quantity shipped on the following day shall be increased or decreased respectively by the amount of such excess shipment or undershipment: *Provided further*, That the quantity of fruit which may be shipped on each of the first and second days of the initial regulation period, or any other regulation period which does not immediately follow a previous regulation period, from all assembly points by shippers who have not elected to have their fruit regulated at shipping points shall be that quantity which is the result of the application of the percentage, obtained by dividing the total quantity of fruit shipped by such shippers during the second day prior thereto by the quantity shipped by all shippers during such prior day, to the quantity advisable to be shipped on the first and second days, respectively, of the regulation period. The first carload of fruit arriving at any assembly point and subject to regulation thereat shall be the first carload released for shipment from all assembly points on any particular day, and succeeding carloads shall be released for shipment in the order of arrival until the total quantity for the particular day has been released. The maximum time that cars may be held in assembly points shall be prescribed by the commodity committee in rules and regulations approved by the Secretary: *Provided*, That no car shall be held at any assembly point longer than four (4) days whenever there are any cars being regulated at railroad assembly points: *Provided further*, That fruit shipped pursuant to allotments at shipping points shall not be detained at assembly points. Whenever any shipper has one or more carloads of fruit at an assembly point or points which have priority of shipment at a given time, and such shipper also has other carloads which do not have priority, such shipper may substitute any carload without priority for any carload having such priority. The respective commodity committee shall, in accordance with the provisions hereof, release fruit, subject to regulation at assembly points, for shipment from assembly points; and fruit, subject to regulation at assembly points, shall not be shipped from any railroad assembly point or cold storage assembly point until it has been released by the respective commodity committee.

16. Delete § 936.5 (j) and insert, in lieu thereof, the following:

(j) *Prohibition of loading.* The Secretary may, in order to effectuate the declared policy of the act, prohibit for a period of forty-eight (48) hours, upon the recommendation of the respective commodity committee supported by the specific information upon which such recommendation is based, or upon the basis of other information available to the Secretary, the loading of fruit for shipment to any or all railroad assembly points: *Provided*, That there shall elapse not less than ninety-six (96) hours between the last day of one prohibition period, established pursuant to the provisions of this section, and the first day of the next succeeding prohibition period. Any quantity of fruit loaded for shipment to any cold storage assembly point, during a prohibition period, shall not be eligible for release for shipment, except as provided in § 936.5 (k) hereof, during such time as said fruit or fruits are being regulated pursuant to the provisions of this section. No shipper who shipped fruit to any or all assembly points during the forty-eight (48) hours prior to the beginning of a prohibition period, established pursuant to the provisions of this paragraph, shall, for a period of forty-eight (48) hours succeeding the termination of the respective prohibition period, load for shipment fruit to assembly points in excess of the quantity of such fruit loaded for shipment by the respective shipper during the period of forty-eight (48) hours immediately prior to the beginning of such prohibition period: *Provided*, That any shipper who has made no shipments from a particular district, during the particular season, before the beginning of a prohibition period, established pursuant to the provisions of this paragraph, may apply to the respective commodity committee for exemption from such restrictions applicable after the termination of such prohibition period, and, if said commodity committee determines that said restrictions operate inequitably to said shipper in a particular district, said commodity committee shall exempt such shipper from such restrictions, after a prohibition period, as are provided in this paragraph.

17. Delete § 936.5 (l) and insert, in lieu thereof, the following:

(l) *Revision and correction of reports.* The respective commodity committee may investigate and check the accuracy of any reports filed pursuant to the provisions of this section, and said committee may verify the same in such manner as it may determine; and, on the basis of the findings by said committee, it may revise and correct any such report. Each commodity committee shall prescribe reasonable means whereby any grower or shipper, who may be dissatisfied with the action taken by the respective commodity committee, may protest to that committee, or its representative, concerning the action taken by said committee; and in the event of such protest, the action taken by the committee shall be reconsidered and revised to any such extent as the committee may find to be proper. Thereafter, such person protesting, if dissatisfied, may appeal to the Secretary from the committee's final decision on said protest; and the Secretary's determination on such appeal shall be conclusive and final.

18. Delete § 936.9 (c) and insert, in lieu thereof, the following:

(c) *Reports to committees.* For the purpose of enabling the Control Committee and the commodity committees to perform their respective functions hereunder, each shipper shall furnish, or authorize any or all railroad companies and transportation companies to furnish, to the confidential employee or confidential employees of the Control Committee complete daily information, in such form and at such times and substantiated in such manner as shall be prescribed by the commodity committee and approved by the Secretary, with regard to each shipment of fruit. Such reports may include the number of cars ordered; the time of

departure of each shipment of fruit from the specified railroad points; the time of shipment of each car of fruit; the name of the shipper; the car number; the number of packages of fruit or the equivalent thereof in weight in each shipment; the price per package at which sold, including specific and detailed information relative to all discounts, allowances, rebates, or other adjustments thereof; the kind, variety, grade, and size of fruit; the grower for whom such fruit is shipped; the point of origin; and the destination and routing, and any diversion of the shipment of any carload of fruit made through any or all agencies. Such information shall be compiled promptly by the confidential employee or confidential employees and promptly made available in summary form to all shippers and other interested persons: *Provided, however,* That such compilation or summary shall not reveal the identity of individual informants, shippers, or growers. The confidential employee or confidential employees shall not disclose any information obtained pursuant to this section except in the aforesaid summary or compilation: *Provided, however,* That said confidential employee or confidential employees shall, if so directed by the Secretary, submit all of said information, including the original reports, to the Secretary or to such person or persons as the Secretary may direct.

19. Delete § 936.10 (c) and insert, in lieu thereof, the following:

(c) *Proceedings after termination.* Upon the termination hereof the members of the Control Committee then functioning shall continue as trustees, for the purpose of liquidating the affairs of the said committee, of all funds and property then in the possession of or under the control of the Control Committee, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination; and the procedural rules governing the activities of said trustees, including but not being limited to the determination as to whether action shall be taken by a majority vote of the trustees, shall be prescribed by the Secretary. The said trustees shall continue in such capacity until discharged by the Secretary and shall from time to time account for all receipts and disbursements and deliver all funds and property on hand, together with all books and records of the Control Committee and the trustees, to such person as the Secretary shall direct, and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds and claims vested in the Control Committee or the trustees pursuant to the provisions hereof; and the said trustees shall refund to each contributing shipper the excess of the amount paid by such shipper above his pro rata share of expenses, or debit each shipper with the difference between his pro rata share and the amount paid by any such shipper if such amount is less than his pro rata share. Any such debit shall become due and payable upon the demand of the said trustees. Nothing stated herein shall be deemed to preclude the bringing of a suit for assessments levied by the Control Committee at any time prior to the termination hereof. Any person to whom funds, property, or claims have been delivered by the Control Committee or its members upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said committee or upon said trustees.

In witness whereof, the undersigned, acting pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the United States Department of Agriculture in the city of Washington, District of Columbia, on this 13th day of July 1940, and declares this order to be effective, with regard to fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, on and after 12:01 a. m., P. s. t., July 17, 1940.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-2922; Filed, July 13, 1940; 12:22 p. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

PART 224—TARIFFS

FILING, POSTING AND PUBLISHING OF TARIFFS BY AIR CARRIERS AND FOREIGN AIR CARRIERS

At a session of the Civil Aeronautics Board held at its office in Washington, D. C. on the 10th day of July 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 403 (a) thereof, and finding that its action is desirable in the public interest and is necessary and appropriate to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Board hereby makes and promulgates the following regulation:

Effective July 15, 1940, § 224.1 of the Economic Regulations is hereby revised to read as follows:

§ 224.1 *Filing, posting, and publishing of tariffs by air carriers and foreign air carriers.* All tariffs filed with the Board on or after July 15, 1940, unless otherwise authorized by Special Tariff Permission of the Board, must conform to this Section of the Economic Regulations. All tariffs now on file with the Board that are not in conformity herewith must be reissued in conformity herewith within ninety (90) days after the effective date hereof unless otherwise authorized by Special Tariff Permission of the Board.

(a) *Definitions.* As used herein, unless the context otherwise requires:

(1) "Carrier" means any air carrier or any foreign air carrier subject to section 403 of the Civil Aeronautics Act of 1938.

(2) "Rates" includes "fares" and "charges."

(3) "Rules" includes "regulations" and "other governing provisions."

(4) "Tariff" means a publication containing rates applicable to the transportation of persons or property, and rules relating to or affecting such rates or transportation, whether such rates and rules are combined in one publication or are stated in separate publications. A "loose-leaf tariff" shall be deemed to consist of that combination of pages, whether original or revised, which are currently effective.

(5) "Local rate" means a rate that applies for service solely over the line or route of one carrier. "Local tariffs" are those which contain local rates or rules.

(6) "Joint rate" means a rate that applies for through service over the lines or routes of two or more carriers and that is made by arrangement between such carriers evidenced by concurrence or power of attorney as provided in this Regulation. "Joint tariffs" are those which contain joint rates or rules.

(7) "Through rate" means the total rate from point of origin to destination, whether a local rate, a joint rate, or combination of separately published rates.

(b) *Who may file.* (1) Local tariffs shall be filed by an officer or duly authorized agent of the carrier.

(2) Joint tariffs shall be filed by an officer of one of the carriers (to be known as the issuing carrier), or by the duly authorized agent of each of the carriers, parties thereto. Such filing will constitute filing for all carriers parties thereto.

(3) An agent will be deemed to be duly authorized to file a local tariff and/or a joint tariff when appropriate power of attorney has been given to him for the purpose as provided in this Regulation.

(4) A joint tariff may be filed by an officer of the issuing carrier only when each of the other carriers parties thereto has given its concurrence as provided in this Regulation.

(5) A carrier issuing a power of attorney to an agent, or a concurrence to another carrier, to publish and file certain rates shall not publish in its own tariffs rates which duplicate or conflict with those published by such

agent or other carrier under such power of attorney or concurrence.

(6) The filing of a tariff with the Board in no way relieves an air carrier from liability for any violation of the Act or of Regulations issued thereunder.

(c) *Form and preparation of tariffs.* (1) All tariffs shall be in book, pamphlet or loose-leaf form; supplements shall be in book or pamphlet form. The pages of a tariff or supplement shall be eight and one-half by eleven inches (except that tariffs naming only rates for the transportation of property may be nine and one-half by eleven and one-half inches) and shall be plainly printed, planographed, stereotyped, or prepared by other similar durable process on paper of good quality.

(2) The type used shall be of size not less than eight point bold or full face, except as provided in paragraph (d) (1) and except that six point bold or full face type may be used for explanation of reference marks and for column headings.

(3) A margin of not less than one inch, without any printing thereon, shall be allowed at the binding edge of each tariff or supplement thereto.

(4) Each carrier shall file tariffs under consecutive C.A.B. numbers. An Agent shall file tariffs under his own C.A.B. numbers. Numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs shall have been issued previously, beginning with C.A.B. No. 1. Supplements to a tariff shall be numbered as provided in paragraph (j) (1). If, for any reason, a tariff or supplement is not numbered consecutively with the last filed publication in the same series, such tariff or supplement must be accompanied by a memorandum explaining why consecutive numbers were not used. When a publication is rejected by the Board as unlawful, the number which it bears must not be again used. Such publication must not thereafter be referred to as cancelled, amended, or otherwise, but a publication that is issued to take the place of such rejected publication must bear the notation, "Issued in lieu of C.A.B. No. ------, (or Supplement No. ------), (or ------ Revised Page No. ------) rejected by the Board."

(5) Pages of loose-leaf tariffs must be consecutively numbered in the upper right-hand corner as "Original Page 1," "Original Page 2," etc. (see paragraph (l) for numbering original pages issued subsequent to the filing of the original tariff); and must show, at the top of the page, the name of the publishing carrier or agent, (see paragraph (d) (1), subparagraph (b) hereof), the page number, and the C.A.B. number of the tariff, and, at the bottom of the page, the date of issue, the effective date, and the name, title and business address of the issuing officer or agent. No alteration in writing or erasure shall be made on any tariff or supplement thereto.

(d) *Title page.* (1) The title page of every tariff or supplement shall consist of durable flexible paper of sufficient weight and strength to withstand hard usage and shall contain the following information in the order named:

(i) On the upper right hand corner, the C.A.B. number in prominent bold face type, which shall, on printed tariffs, be not less than twelve point. Immediately under this number there shall be shown the C.A.B. number or numbers of the tariff or tariffs cancelled thereby.

(ii) On the upper central portion, the name of the issuing carrier or agent.

(2) Below the name of the carrier or agent:

(i) A statement indicating whether the tariff contains local or joint rates and rules, or a combination thereof.

(ii) A brief but reasonably complete statement of the territory within which, or the points from and to or between which, the rates or rules apply; and, where the application is indicated by states, the names of all states to or from which rates apply.

(iii) The date on which the rates and rules will become effective, shown on the lower right-hand corner; and the date on which the publication is issued, on the lower left-hand corner.

(iv) The name, title and address of the person issuing the tariff, near the bottom of the title page.

(3) Every publication which contains rates or rules, effective upon a date different from the general effective date of such publication shall show on its title page a notation in substantially the following form:

Effective------19---- (except as otherwise provided herein) or (except as provided on page ----).

(4) On every tariff, supplement or revised page in which all rates or rules are made effective on less than thirty (30) days' notice under permission or order of the Civil Aeronautics Board, a notation in substantially the following form shall be shown:

Issued on ------ days' notice under (here describe and show date and number of the permission or order, etc.) issued by the Civil Aeronautics Board.

(5) A tariff containing only rates that are intended to apply for a limited period shall show on the Title Page an expiration date to coincide with the final date upon which such rates are applicable; when limited-period rates are published in the same tariff with permanent rates, such limited-period rates shall be properly reference marked to indicate their expiration date.

(e) *Contents of tariffs.* Tariffs shall contain in the order named:

(1) A table of contents showing the pages in the tariff where information concerning the general subjects covered by the tariff will be found, such subjects to be arranged in alphabetical order in the table; for example:

	Page No.
Abbreviations	----
Application of Tariff	----
Baggage:	
Articles not accepted	----

If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(2) The corporate names of participating carriers, alphabetically arranged, together with the number of the power of attorney or the concurrence of each under which the tariff is issued.

(3) A complete index, alphabetically arranged, of all articles upon which specific rates are named therein, making reference to each page where specific rates on each article are published. The index may also include a list of articles that will not be accepted for transportation. If all of the specific rates to each destination in a general property tariff or a combined passenger and property tariff are arranged in alphabetical order by articles, the index of articles may be omitted from that tariff.

(4) Alphabetical indices of points of origin and destination from and to, or between, which rates are named in the tariff, unless such points are arranged in continuous alphabetical order in the tables naming the rates and appropriate conspicuous notation of that fact appears on the title page of the tariff or supplement. Such indices must show precisely and clearly (by use of "point index" or "item" or "page" numbers) the place or places in the tariff where the rates from or to each point may be found. Reissuance of pages containing such indices will be required when the indices do not permit of ready and convenient location of all of the rates from or to each point. Separate indices of points of origin and destination shall be provided except that when all, or substantially all, of the rates named in the tariff apply in both directions between the points shown therein, the points of origin and destination may be combined in one index. The State or other governmental unit in which each point is located must be shown in each index.

(5) Explanation of reference marks, symbols, and abbreviations of technical terms used in the tariff, if not explained on the pages where such reference marks, symbols and abbreviations are used.

(6) Such explanatory statements as may be necessary to remove all doubt as to the proper application of the rates and rules contained in the tariff. When rates are published for account of any carrier under authority of a limited concurrence or of a limited power of attorney, there shall be included in this section of the tariff such statement as is

necessary to indicate clearly and definitely the extent to which the published rates apply for account of such carrier.

(7) General rules which govern the tariff, i. e., state conditions which in any way affect the rates named in the tariff, or the service under such rates. Each rule should be given a separate number. A rule affecting a particular rate must be specifically referred to in connection with such rate, except that rules affecting a limited number of the rates contained in the tariff, or applying for the account of only certain of the carriers for whom the rates are published, may be included in the explanatory statements authorized in paragraph (e) (6). Reference to any rule published under the immediately preceding exception must be made in such manner as to leave no doubt concerning the application of the rates. A rate tariff may not refer to another rate tariff for rules.

(8) A statement of charges for excess baggage, sleeper service and any other like services unless such charges are included in the statement of the rules governing such services.

(9) A statement of rates applicable for transportation of persons and property between the points named in the tariff as more particularly set forth in paragraph (f).

(10) A clear and explicit statement of routes over which the published rates apply prepared in accordance with the provisions of paragraph (g).

(f) *Statement of rates.* (1) (See paragraph (b) (5) and (e) (9)). If the same tariff contains rates for the transportation of passengers and rates for the transportation of property (other than the property of passengers carried as baggage), such rates shall be separately stated in distinct passenger and property sections of the tariff.

(2) All rates shall be clearly and explicitly stated (cents or dollars and cents) in terms of lawful money of the United States together with the name or proper designations of the places from and to which they apply; except that rates for transportation originating outside of the United States may be stated in terms of currencies other than lawful money of the United States. Rates stated in terms of foreign currency may be set forth in a separate tariff, or if included in the same tariff, must be set forth in a separate section which shall not precede the statement of rates in terms of lawful money of the United States. A rate stated in terms of lawful money of the United States shall not also be published in terms of a foreign currency. Tariffs may contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate.

(3) Rates for transportation by aircraft must be published for application from airport to airport, and must be stated separately from any charge made by the air carrier, or any subsidiary or affiliate thereof, for ground transportation to or from airports or for pick-up and delivery service; however, no separation of charges is necessary when the published rates include ground transportation at no additional charge. The tariff must definitely show any separate charge that is to be made by the air carrier, or any subsidiary or affiliate thereof, for ground transportation or pick-up and delivery service. Charges of others for such ground transportation or pick-up and delivery service may be shown in the tariff without being deemed to constitute a part thereof; but, if shown, must be plainly referenced to show that they are published for information only and not guaranteed by the air carrier.

(4) A tariff may provide rates for side trips from or to designated points by the addition of arbitraries to rates shown therein, but provisions for the addition of arbitraries shall be shown either in connection with the base rate or in a separate section which must specifically name the base point and clearly and definitely state the manner in which such arbitraries shall be applied.

(5) When specific rates are established, the description of the article must be specific and the rates thereon may not be applied to analogous articles.

(6) When a carrier or carriers establish a local or joint rate for application over a designated route from point of origin to destination, such rate is the applicable rate of such carrier or carriers over that route, notwithstanding that it may be higher than the combination of rates between points on that route.

(g) *Routing.* All tariffs containing joint passenger rates shall specify the route or routes over which each such rate applies, stated in such a manner that such routes may be definitely ascertained. Tariffs containing local passenger rates shall specify routes in the same manner if optional routing is available. Passenger tariffs must definitely provide that rates named therein apply only over routes as specifically shown therein.

(h) *Rules tariffs.* (1) Rules relating to or affecting the application of rates may be published in a tariff other than the tariff naming the rates. The pertinent requirements of paragraphs (b), (c), (d) and (e) hereof, must be observed in the publication of rules tariffs.

(2) A rules tariff must provide that it governs only such rate tariffs as make specific reference thereto. Tariffs naming rates subject to a rules tariff must bear the following notation on the title page (or elsewhere as may be appropriate):

"Governed, except as otherwise provided herein, by rules shown in (here insert name of issuing carrier or agent) Rules Tariff C. A. B. No. ——— supplements thereto and succeeding issues thereof."

(i) *Amendments of tariffs.* (1) Any change in or addition to a tariff shall be known as an amendment.

(2) A tariff may be amended at any time (i) by "reissuing" the tariff; i. e., by filing, posting and publishing an entirely new tariff which contains all of the unamended data in the previous tariff as well as a complete statement of the amended data, and which bears the next C.A.B. number in the series and directs the cancellation of the previous tariff; (ii) by issuing a supplement (to a book or pamphlet tariff) constructed generally in the same manner, and arranged in the same order, as is the tariff (see paragraph (j)); or (iii) by reprints of the pages of a loose-leaf tariff (see paragraph (l)).

(3) A rate or rule sought to be amended and the amendment thereto, cannot be in effect at the same time. All amendments must be effected by specifically cancelling the existing rate or rule, and publishing the new rate or rule which amends the existing rate or rule. Cancellation of the existing rate or rule must be made in the publication stating the new rate or rule, except as may be otherwise arranged with the Economic Bureau of the Board in particular instances.

(4) The nature of each amendment must be indicated by use of the following uniform symbols, which shall be shown and explained in the publication in which they are used (see paragraph (e) (5)) and which shall not be used for any other purpose:

♂ or (R) to denote reductions.
♀ or (A) to denote increases.
△ or (C) to denote changes in wording which result in neither increases nor reductions in charges.
□ or (N) to denote addition.

(5) When a tariff, supplement or revised page cancelling a previous issue omits points of origin or destination, routes, rates or rules contained in the previous issue, the new tariff, supplement or revised page shall indicate the cancellation in the manner prescribed in paragraph (i) (3), and, if such omission effects changes in charges or services, that fact shall be indicated by the use of the uniform symbols prescribed in paragraph (i) (4).

(6) Matter brought forward without change from a tariff or revised page which has not become effective, also all matter brought forward without change from one supplement to another, must be designated "Reissued" in distinctive type and must show the original effective date and the number of the supplement, tariff or revised page from which it is reissued. Reference marks may be used for this purpose providing the explanations thereof are made in the tariff or supplement in which the reference marks are used. Example: "#—Reissued from C.A.B. No. 1, (or Supplement No. 1) effective (here show the date upon which the

item became effective in the tariff or supplement so named)."

(7) Every publication which consists partly but not wholly of matter established upon less than statutory notice shall show, in connection with each change made effective on less than statutory notice, a notation that such matter is issued on three days' notice under (*here giving specific reference to the Special Tariff Permission, decision, order, rule or other authority*). (See paragraph (d) (3).)

(8) Amended tariff matter that has been filed with the Board in error may be cancelled in full or in part, on or before the date upon which such matter is to become effective, by refiling the existing matter erroneously amended upon less than thirty (30) days' notice without obtaining Special Tariff Permission for short-notice publication, provided that a full explanation of the attending circumstances is given in the letter of transmittal of the refiled matter (see paragraph (o) (1)). A tariff, supplement or revised page filed under this paragraph must bring forward unchanged the existing tariff matter, properly reference marked with the following notation:

"Cancellation of proposed tariff matter published in error; issued upon less than thirty (30) days' notice under permission granted by paragraph (i) of § 224.1 of the Economic Regulations of the Civil Aeronautics Board."

(j) *Supplements.* (1) The first supplement to a tariff shall be identified and numbered on the upper right-hand corner of the title page as follows:

Supplement No. 1
to
C.A.B. No. ------

Subsequent supplements shall be numbered consecutively in like manner. Each supplement shall specify on its title page, immediately under the supplement number and C.A.B. number of the tariff supplemented, the publications which the supplement cancels, and shall also specify the supplements that are in effect. The statement that the supplement cancels conflicting portions of the tariff or prior supplements (without showing the numbers of the prior supplements) shall not be used; cancellations must be specific.

(2) If matter to be amended has been amended by a previous supplement, specific cancellation shall be made of the matter as contained in the previous supplement, and specific reference shall be made not only to the page number or numbers (or other identifying designations) of the previous supplement containing such matter, but to the page number or numbers (or other identifying designations) of the tariff or of the supplement in which the matter was originally established.

(3) A supplement shall contain either a list of carriers participating in the tariff, as amended, or shall state that the list of participating carriers is "as shown in tariff," or "as shown in tariff and effective supplements," to which may be added "except (here show corrections in, additions to, or eliminations from the original list that are effected by the supplement)." Changes in or additions to the list of participating carriers in the tariff or previous supplements shall be listed alphabetically as provided in paragraph (e) (2). When a participating carrier is eliminated by supplement, such supplement must also provide for the cancellation of all rates and routes in which the carrier concurs.

(4) The aggregate volume of supplemental matter currently in effect shall not exceed one-third of the volume of the principal tariff. The Board may direct the reissue of any tariff at any time.

(k) *Suspension supplements.* Whenever the operation of any provision of a tariff, supplement or loose-leaf page is suspended by the Board, the carrier or agent whose tariff is affected by such suspension shall immediately file, post and publish a supplement prepared in such form and manner as may be required by the Economic Bureau of the Board. Protests against and requests for suspension of tariff amendments under section 1002 (g) of the Act will not, except under unusual circumstances which must be fully explained, be considered unless they are received by the Board within five (5) days after the date such tariff amendments are filed with the Board.

(l) *Revised and additional pages of loose-leaf tariffs.* (1) Reprints of existing pages of a loose-leaf tariff (see paragraph i) for the purpose of amending the existing page shall be known as "revised pages." Each such page shall show the number of the revision, the number of the page, and direct the cancellation of the previous page; for example, "1st Revised Page 1 Cancels Original Page 1," "2nd Revised Page 1 Cancels 1st Revised Page 1," "3rd Revised Page 1 Cancels 2nd Revised Page 1." The term "revised page" must not be used to designate additional pages filed for the first time (see paragraph (l) (3)).

(2) When a revised title page is issued, the following notation shall be shown immediately under the effective date of the revised title page:

Original tariff effective ------ (here show effective date of the original tariff).

(3) When it becomes necessary to publish additional pages in a loose-leaf tariff, such additional pages must be designated "Original." If they are added between pages of the tariff, they must bear the same number as the preceding page, followed by a letter suffix: thus, "Original Page 4–A," "Original Page 4–B," etc. (Revisions of such pages must bear the same number, as "1st Revised Page 4–A.") If additional pages follow the last page of the tariff, they must be given the next consecutive numbers: thus, three (3) pages added at the end of a tariff of one hundred fifty (150) pages should be numbered "Original Page 151," "Original Page 152," and "Original Page 153." An original page may not be added for the purpose of changing rates or rules which concurrently appear on other pages of the tariff.

(4) When a revised page is issued which omits rates or rules previously published on the page which it cancels, and such rates or rules are published on a different page, the revised page shall make specific reference to the page on which the rates or rules will be found, and the page to which reference is so made will contain the following notation in connection with such rates or rules:

For ------ (here insert rates or rules, as the case may be) in effect prior to the effective date hereof, see page —.

Subsequent revised pages of the same number shall omit this notation in so far as this particular matter is concerned.

(5) The following method shall be used in identifying and checking revised pages filed for the purpose of amending loose-leaf tariffs: Each time revised or additional original pages are filed, such revised and additional original pages shall show, in the lower right-hand corner, correction numbers running in consecutive order beginning with No. 1, each revised and additional original page issued and filed at the same time being given its individual consecutive correction number. A permanent check sheet, containing in numerical order a list of correction numbers beginning with No. 1 and the following provision, shall be filed with the original tariff:

"Each time revised or additional original pages are received check marks should be made on the check sheet opposite the correction numbers corresponding to those appearing in the lower right-hand corner of the revised or additional original pages. If pages should not be received bearing consecutive correction numbers, the issuing officer or agent should be requested to furnish the page bearing the correction number for which a page has not been received."

(6) When protective covers for a loose-leaf tariff are used, only such information should appear thereon as will remain constant and in use during the life of the tariff.

(7) Supplements shall not be issued to loose-leaf tariffs except for the purpose of cancelling the tariff, or as authorized by paragraph (k) and paragraphs (m) (1) and (m) (2), or as otherwise permitted by the Economic Bureau of the Board.

(m) *Discontinuance and restoration of air service.* (1) Upon receipt of an authorization from the Board for suspension or the discontinuance of service at any point the carrier or agent publishing tariffs naming such point shall immediately file with the Board and

post in accordance with paragraph (o), a consecutively numbered supplement to the Tariff entitled "Discontinuance and Restoration of Service Supplement" and containing a notice of the discontinuance of service, including the date on which service was or will be discontinued, and further providing that rates and rules named in the tariff from and to such point are not in effect while such service is discontinued.

(2) Upon restoration of service to the point, the carrier or agent publishing tariffs naming such points shall immediately file with the Board and post in accordance with paragraph (o) a reissue of the "Discontinuance and Restoration of Service Supplement" containing a notice of the restoration of service, including the date on which service will be restored, and further providing that rates and rules named in the tariff from and to such points will again be in effect on such date. Supplements containing restoration of air service shall be filed with the Board and posted for public inspection upon not less than one (1) day's notice.

(3) Each "Discontinuance and Restoration of Service Supplement" shall bear an issued date, but shall not bear a general effective date; the date of discontinuance or restoration of air service shall be shown in individual items as required by paragraphs (m) (1) and (m) (2). Supplements issued hereunder may be filed and posted without regard to the requirements of section 403 (c) of the Civil Aeronautics Act of 1938, and paragraph (j) (4) hereof, and must bear a notation: "Issued under permission granted by paragraph (m) of § 224.1 of the Economic Regulations of the Civil Aeronautics Board," adding thereto citation of any other pertinent permission or order of the Board.

(4) When notice of the discontinuance of service at any point has been published in a "Discontinuance and Restoration of Service Supplement," such notice must be brought forward as reissued matter in all succeeding issues of the supplement until such time as service at that point is restored or the rates and rules named in the tariff from and to that point are cancelled. Notice of the restoration of service at any point must be reissued in a similar manner until such time as service at that point is actually restored.

(5) Only one supplement permitted by this paragraph may be in effect at any one time, and must direct the cancellation of the preceding "Discontinuance and Restoration of Service Supplement."

(n) *Inauguration of service over new routes and from and to new points on existing routes.* (1) Rates or rules for application from and to points on new routes, and from and to new points on existing routes, may be established on not less than one (1) day's notice without obtaining Special Tariff Permission for short-notice publication, provided a full explanation of the attending circumstances is given to the Board in each instance in the letter of transmittal as directed by paragraph (o) (1).

(2) A tariff, supplement or revised page establishing such rates or rules must contain the following notation, which shall be shown on the title page of tariffs and supplements, and near the bottom of revised pages:

"Rates for new service; issued upon not less than one (1) day's notice under permission granted by paragraph (n) of § 224.1 of the Economic Regulations of the Civil Aeronautics Board."

(3) If rates for new service are commingled in the same publication with rates in effect at other points, the rates for new service must be clearly indicated by appropriate symbol.

(o) *Filing and posting.* (1) All tariffs, supplements and revised pages filed with the Board shall be accompanied by a letter of transmittal eight and one-half by eleven inches in size, in form substantially as follows:

_____
(Name of carrier or agent in full)
_____
(Post Office Address)
_____, 19--

TARIFF TRANSMITTAL NO._____

To the Civil Aeronautics Board, Economic Bureau,
Tariffs Section, Washington, D. C.

Sent you for filing in compliance with the requirements of the Civil Aeronautics Act of 1938, is accompanying publication issued by _____ and bearing C.A.B. No. __ (or Supp. No. __ to C.A.B. No. __) (or __ revised page No. __ to C.A.B. No. __), effective _____, 19__, for the purpose of (here insert a comprehensive explanation of the accompanying tariff filing). This publication is concurred in by all carriers named therein as participants under continuing concurrences or powers of attorney now on file with the Civil Aeronautics Board, except the following named carriers, whose concurrences or powers of attorney are attached hereto:

_____
_____
_____
(Signature)
_____
(Title)

(2) A letter may be accompanied by more than one (1) publication.

(3) If receipt is desired by the filing carrier or agent, letters of transmittal must be sent in duplicate, and one (1) copy showing the date of receipt by the Board will be returned to the sender.

(4) Three (3) copies of each tariff, supplement, or revised page must be transmitted to the Board in one package and under one letter of transmittal. The word "tariffs" must appear on the outside of the package, which must be addressed in conformity with the letter of transmittal.

(5) No tariff, supplement, or revised page will be received by the Board unless it is delivered to it free from all charges, including claims for postage.

(6) Tariff publications received by the Board but rejected for filing will not be returned.

(7) Each carrier shall post and make available for public inspection at each of its stations or offices which are in charge of a person employed exclusively by the carrier, or by it jointly with another person, and at which property is received for transportation or at which tickets for passenger transportation are sold, all of the currently effective tariffs to which it is a party and containing the rates and rules applicable to the transportation by it of the property received or the passengers to whom tickets are sold at such stations or offices. A carrier will be deemed to have complied with the requirements that it "post" tariffs, if it maintains at each such station or ticket office a file of current tariffs in complete form.

(8) Each carrier shall maintain permanently at its principal or general office a complete file of all tariffs issued by it or by its agents, including those tariffs in which it concurs.

(9) The granting of authority to issue tariffs under powers of attorney or concurrences does not relieve the carriers conferring the authority from the necessity of complying with the Board's regulations with regard to posting tariffs. Tariffs issued under such authority must be posted as required by these regulations.

(10) Each file of tariffs shall be kept in complete and accessible form. Employees of the carrier shall be required to give any desired information contained in such tariffs, to lend assistance to seekers of information therefrom, and to afford inquirers opportunity to examine any of such tariffs without requiring the inquirer to assign any reason for such desire.

(p) *Application for special tariff permission.* (1) The Civil Aeronautics Act of 1938, authorizes the Board in its discretion and for good cause shown to permit changes in rates on less than statutory notice, and also to permit departure from the Board's regulations. The Board will exercise the power only in cases where actual emergency and real merit are shown. Desire to meet the rates of a competing carrier that has given statutory notice of change in rates will not of itself be regarded as good cause for permitting changes in rates or other provisions on less than statutory notice. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error together with a full statement of the attending circumstances and must be presented with reasonable promptness after discovery of the error.

(2) Applications for permission to make changes or additions in tariffs on less than statutory notice, or for waiver of the provisions of this Tariff Regulation, must be made by the carrier or agent that holds authority to file the proposed publication.

(3) If the application requests permission to make changes in joint tariffs, it must be filed for and on behalf of all

carriers parties to the proposed change, and must so state.

(4) Two copies of Applications (including amendments thereto and exhibits made a part thereof) shall be sent to the Civil Aeronautics Board, Economic Bureau, Tariffs Section, Washington, D. C.

(5) Applications for permission to publish on less than statutory notice shall be made on paper eight and one-half by eleven inches, shall be in substantially the form shown hereinbelow, and shall give all the information required by this rule, together with any other pertinent facts. They shall be numbered consecutively and must bear the signature of the carrier's agent or officer, specifying title. When the application is made by an agent, appropriate change should be made in the introductory and closing paragraphs of this form.

_____
(Address)

_____
(Date)

To the Civil Aeronautics Board, Economic Bureau, Tariffs Section, Washington, D.C.

Special Tariff Permission Application No. _____, _____, by
(Name of carrier)

_____, for
(Name of officer, specifying title)

and on behalf of all carriers parties to its tariff C.A.B. No. _____* applies to the Civil Aeronautics Board for permission under section 403 (c) of the Civil Aeronautics Act of 1938 to put in force the following tariff provisions to become effective _____ days after the filing thereof with the Civil Aeronautics Board:

_____

_____
(Here show matter as directed by paragraph (p) (6) (i))

Your applicant further represents that the said (Here state in numbered paragraph the data required by paragraph (p) (6)).

_____
(Name of carrier)

By _____
(Name and title)

*If reference to tariffs or tariff does not exactly designate carriers involved, other methods of designating carriers should be employed).

(6) Applications for permission to publish on less than statutory notice shall show the following information:

(i) The proposed tariff provisions, clearly and completely. For that purpose, an accompanying exhibit may be used if properly identified and referred to in the application. If the proposed provisions consist of rates, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish or change a rule, the exact wording of the proposed rule must be given.

(ii) The C.A.B. numbers of the tariffs in which the proposed rates or rules will be published. If publication is to be made in supplements or revised pages, this fact shall be shown.

(iii) The rates or rules which it is desired to change, and the C.A.B. numbers of the tariffs (showing supplement and loose-leaf page numbers) in which they are currently effective. Where the matter to be shown is voluminous, or, for other reasons, is difficult of presentation, it may be included in an accompanying exhibit properly identified and referred to in the application. The extent to which cancellations will be made must be definitely indicated.

(iv) The names of all air carriers and agents advised of the proposed rates or rules and whether they have been advised that it is proposed to establish such rates or rules on less than statutory notice. If such carriers or agents have expressed their views in regard to the proposed provisions, a brief statement of their views shall be given.

(v) The special circumstances or unusual conditions which are relied upon as justifying the requested permission, together with any related facts or circumstances which may aid the Board in determining whether the requested permission is justified. (See paragraph (p) (1))

(7) Applications seeking waiver of the provisions of this tariff regulation must conform to the requirements of this paragraph in so far as appropriate, and such waiver may be permitted by the Economic Bureau of the Board.

(8) A Special Tariff Permission must be used in its entirety and in the manner set forth therein. If it is not desired to use the permission as granted, and less or more extensive or different permission is desired, a new application complying with the provisions of this paragraph in all respects and referring to the previous permission must be filed.

(q) *Powers of attorney.* (1) The following form shall be used by a carrier to give authority to an agent to publish and file tariffs, supplements and revised pages, for and on behalf of such carrier. (See paragraphs (b) (1), (b) (2) and (b) (3)) Powers of attorney shall be prepared on good paper of durable quality, eight and one-half by eleven inches in size. They must be prepared in triplicate. The original shall be filed with the Board, the duplicate sent to the agent designated therein, and the third copy retained by the issuing carrier. (Existing powers of attorney that do not comply with the requirements of this paragraph must be reissued or revoked within one hundred twenty (120) days from the effective date of this Regulation.)

POWER OF ATTORNEY

No. _____

_____
(Correct corporate name of carrier)

_____
(Post Office address)

_____, 19__

Know All Men by This Instrument:

That, effective on the _____ day of _____, 19__, _____
(insert correct corporate name of carrier)

makes and appoints _____
(name of principal agent)

attorney and agent, to publish and file for it all (see paragraph (q) (2) tariffs, supplements, and revised pages it is required to publish and file by the Civil Aeronautics Act of 1938, and the regulations of the Civil Aeronautics Board issued pursuant thereto, and ratifies and confirms all that said attorney and agent may lawfully do by virtue of the authority herein granted and assumes full responsibility for the acts and failures to act of said attorney and agent.

And, further, That _____
(insert correct corporate name of carrier)

makes and appoints _____
(name of alternate agent)

alternate attorney and agent to do and perform the same acts and exercise the same authority granted to _____
(name of principal agent)

in the event and only in the event of the death or disability of _____
(name of principal agent)

_____
(Correct corporate name of carrier)

By _____

(The power of attorney shall be signed by the president, or by a vice-president, who shall be, if there be more than one, the vice-president in charge of traffic.)

Attest:

_____,
Secretary.

[CORPORATE SEAL]

Duplicate mailed to _____
(Agent)

_____
(Address)

_____
(Date)

The term "disability" as used in the power of attorney shall mean resignation, permanent transfer to other duties, or other permanent absence, of the principal agent, and not temporary absence of the principal caused by vacation, illness, or other similar reasons.

(2) Powers of attorney, if executed without modification from the form set forth in paragraph (q) (1) hereof, confer unlimited authority to publish local rates for the carrier issuing the power of attorney and to publish joint rates for such carrier and such other carriers as shall have issued the necessary authority. If it be desired to limit the authority granted to the agent, the form may be modified by adding at the end of the first paragraph the statement: "This authority is restricted to the filing of the publications (or types of publications) set forth below," or by otherwise clearly stating the extent of the authority granted.

If it is desired to limit the authority granted to publication of a particular tariff or tariffs, this may be done by giving a sufficiently accurate description of the title page of each tariff to identify it, and by showing the C.A.B. number if known. If it is intended that the authority granted shall include supplements to or reissues of specifically named tariffs, that fact should be made clear by adding after the designation of the tariff, "supplements thereto and successive issues thereof."

(3) Powers of attorney may not contain authority to delegate to another the power thereby conferred. In giving authority to an agent to publish and file for the carrier by whom such authority is issued, care must be taken to avoid duplicating to two or more agents authority which, if used, would result in conflicting rates or other provisions.

(4) A power of attorney may be revoked upon not less than forty-five (45) days' notice to the Board by filing with the Board, and serving at the same time a copy thereof on the agent in whose favor the power of attorney was executed, a notice of revocation in the form set forth below and prepared in conformity with the requirements prescribed in this paragraph in respect of powers of attorney. Such revocation may be made for the purpose of eliminating agency publication of tariffs (generally or specially), for the purpose of changing the power previously granted to an agent without changing the agent, and for transferring authority from one agent and alternate to another agent and alternate. If the revocation is for either of the last two of these purposes, the revocation notice should be accompanied by the new power of attorney and the form of notice set forth below should be modified to include specific reference to the new power of attorney.

NOTICE OF REVOCATION OF POWER OF ATTORNEY

_____
(Correct corporate name of carrier)

_____
(Post Office address)

_____, 19__.

Know all men by this instrument:

Effective _____, 19__, power of attorney No. ____ issued by _____ (Correct corporate name of carrier) in favor of _____ (name of agent and alternate, if any) is cancelled and revoked.

_____
(Correct corporate name of carrier)

By: _____

Attest:

_____,
Secretary.

[CORPORATE SEAL]

Duplicate mailed to _____
(Name of Agent)

_____
(Address)

_____
(Date)

(5) A new agent, or an alternate assuming the duties of his principal, shall file with the Board and post and publish a supplement to each of the effective tariffs issued by the agent superseded. The title page of such supplement shall show no effective date but shall contain a statement substantially as follows: "On and after (here show the effective date of the power of attorney of a new agent, or the date on which the principal ceased to act) this publication shall be considered as the issue of (here show name of new agent or alternate)." When issued by a new agent such supplement shall also contain a list of participating carriers together with reference to the new power of attorney issued by each such carrier. An alternate shall submit to the Board on or before the date of filing of such supplement a sworn statement setting forth the facts which justify such exercise of authority. After an alternate has once exercised the authority granted him, the principal may not thereafter act under the same power of attorney.

(r) *Concurrences.* (1) A carrier desiring to give another carrier authority to publish rates or rules in which they, or they and other carriers join, shall give to such other carrier a concurrence in the form set forth below. Concurrence shall be prepared on good paper of durable quality, eight and one-half by eleven inches in size. They must be prepared in triplicate. The original shall be filed with the Board, the duplicate sent to the carrier to which such authorization is directed, and the third copy retained by the issuing carrier. When more than two carriers join in the same publication each of the concurring carriers shall give its concurrence to the issuing carrier. If not restricted, such concurrence will cover any tariff, supplement or revised pages published by the issuing carrier in which the concurring carrier is shown as participating.

CONCURRENCE

No. _____ Cancels No. _____

_____
(Correct corporate name of carrier)

_____
(Post Office address)

_____, 19__.

Know all men by this instrument:

That, effective on the ____ day of _____, 19__, _____ (show correct corporate name of carrier giving concurrence) assents to and concurs in the publication and filing of any tariff, or supplement, or revised page which _____ (show correct corporate name of carrier to whom concurrence is given) may publish and file and in which _____ (show correct corporate name of carrier giving concurrence) is shown as a participating carrier, and _____ (show correct corporate name of carrier giving concurrence) hereby makes itself a party thereto and bound thereby. (If it be desired to restrict or limit the concurrence, continue at this point with the statement, "In so far only as such tariff provides" following here with a clear and definite statement of the scope of the concurrence which is being given).

_____
(Correct corporate name of carrier)

By: _____

Attest:

_____,
Secretary.

[CORPORATE SEAL]

Duplicate mailed to _____
(Correct corporate name of carrier)

_____
(Address)

_____
(Date)

(2) A carrier giving a concurrence or concurrences may not itself publish rates or rules which would duplicate or conflict with rates or rules published under such concurrence or concurrences; and must exercise care to avoid giving concurrences to two or more carriers which could result in duplication of or conflict in rates or rules to which it is a party.

(3) A concurrence may be revoked upon not less than forty-five (45) days' notice to the Board by filing with the Board and serving at the same time a copy thereof on the carrier to whom the concurrence was given a notice of revocation of concurrence prepared in a manner similar to that prescribed in paragraph (q) (4) in respect to notice of revocation of power of attorney.

(s) *Effect of revocation of power of attorney or concurrence.* When a power of attorney or concurrence is revoked, appropriate revision or cancellation of the tariff or tariffs must immediately be made effective upon statutory notice. In the event of failure to make such revision or cancellation, the rates in such tariff or tariffs remain applicable and must be observed.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Acting Secretary.

[F. R. Doc. 40-2923; Filed, July 15, 1940; 9:31 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3875]

IN THE MATTER OF NAPP'S LONGLIFE HOSIERY

§ 3.6 (a10) *Advertising falsely or misleadingly—Comparative data or merits:* § 3.6 (b) (2) *Advertising falsely or misleadingly—Competitors and their products—Competitors' products:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (u) *Advertising falsely or misleadingly—Quality:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.48 (b) 5 *Disparaging competitors and their products—Goods—Performance.* Representing, directly or by means of purported demonstrations, in connection with offer, etc., in commerce, of hosiery, that respondent's hosiery is snag-proof or run-proof, or representing that such hosiery is of a grade or quality different from or superior to its true grade or quality, or that such hosiery will outwear all other competitive hosiery, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Napp's Longlife Hosiery, Docket 3875, June 29, 1940]

§ 3.6 (h) *Advertising falsely or misleadingly—Fictitious or misleading guarantees:* § 3.6 (w) *Advertising falsely or misleadingly—Refunds and replacements:* § 3.72 (k5) *Offering deceptive inducements to purchase—Replacement guarantee:* § 3.72 (k10) *Offering deceptive inducements to purchase—Results guarantee.* Representing, in connection with offer, etc., in commerce, of hosiery, that respondent's hosiery is guaranteed to be satisfactory to the purchaser, or that respondent will make prompt adjustment or refund for any hosiery which is not satisfactory to the user or which does not wear as represented, or that respondent's hosiery is guaranteed against runs or holes for any

specified period of time, or that he will supply new hosiery to the purchaser without cost if runs or holes develop within such specified period, when respondent has not in fact established, and does not in fact maintain a definite policy and practice of fulfilling such guarantees and making such adjustment or refund or supplying such new hosiery, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Napp's Longlife Hosiery, Docket 3875, June 29, 1940]

IN THE MATTER OF IRVING NAPP, AN INDIVIDUAL TRADING AS NAPP'S LONGLIFE HOSIERY

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1940.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before John L. Hornor, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and brief filed herein by J. W. Brookfield, Jr., counsel for the Commission, (no brief having been filed on behalf of the respondent and oral argument not having been requested) and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Irving Napp, an individual trading as Napp's Longlife Hosiery, or trading under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hosiery in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing, directly or by means of purported demonstrations, that respondent's hosiery is snag-proof or run-proof;

(2) Representing that respondent's hosiery is guaranteed to be satisfactory to the purchaser, or that respondent will make prompt adjustment or refund for any hosiery which is not satisfactory to the user or which does not wear as represented, when respondent has not in fact established, and does not in fact maintain a definite policy and practice of fulfilling such guarantee and making such adjustment or refund;

(3) Representing that respondent's hosiery is guaranteed against runs or holes for any specified period of time, or that respondent will supply new hosiery to the purchaser without cost if runs or holes develop within such specified period, when respondent has not in fact established, and does not in fact maintain a definite policy and practice of fulfilling such guarantee and supplying such new hosiery;

(4) Representing that respondent's hosiery is of a grade or quality different from or superior to its true grade or quality, or that such hosiery will outwear all other competitive hosiery.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 40-2914; Filed, July 13, 1940; 11:28 a. m.]

[1] 4 F.R. 4773.

[Docket No. 3960]

IN THE MATTER OF FELLOM PUBLISHING COMPANY

§ 3.6 (n) (2) *Advertising falsely or misleadingly — Nature — Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (dd10) *Advertising falsely or misleadingly—Success, use or standing.* Representing, directly or by implication, in connection with offer, etc., in commerce, of advertising space in the magazine now designated "Pacific Road Builder and Engineering Review," and of said magazine, that such magazine is circulated only among equipment buyers and has no substantial circulation among non-buyers of equipment, or that advertisers in said magazine reach, through the medium thereof, substantially all of the road building and other heavy equipment buyers located in the area in which the magazine is principally circulated, or that the average monthly net paid circulation or average monthly distribution of said magazine is greater in number than the actual net paid circulation or the average monthly distribution, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Fellom Publishing Company, Docket 3960, June 29, 1940]

§ 3.6 (j10) *Advertising falsely or misleadingly — History of product:* § 3.6 (dd10) *Advertising falsely or misleadingly—Success, use or standing:* § 3.6 (dd15) *Advertising falsely or misleadingly—Surveys.* Representing, directly or by implication, in connection with offer, etc., in commerce, of advertising space in the magazine now designated "Pacific Road Builder and Engineering Review", and of said magazine, that a survey has been made of the equipment buyers in the area in which said magazine is principally circulated unless an accurate and dependable survey of such buyers has in fact been made by some qualified agency, or that said magazine is circulated among 93 per cent of the equipment buyers located in the area in which it is principally circulated or among 98 per cent of such buyers based on volume purchases, or among any percentage or number of such buyers greater than the percentage or number among which it is actually circulated, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Fellom Publishing Company, Docket 3960, June 29, 1940]

IN THE MATTER OF ROY FELLOM, DOING BUSINESS UNDER THE NAME AND STYLE OF FELLOM PUBLISHING COMPANY

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1940.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all of the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the said facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Roy Fellom, individually or doing business under the name and style of the Fellom Publishing Company, or any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale and sale of advertising space in the magazine now designated "Pacific Road Builder and Engineering Review", whether published under that name, or any other name, and in connection with the offering for sale, sale and distribution of said magazine in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication:

1. That said magazine is circulated only among equipment buyers and has no substantial circulation among non-buyers of equipment;

2. That a survey has been made of the equipment buyers in the area in which said magazine is principally circulated unless an accurate and dependable survey of such buyers has in fact been made by some qualified agency;

3. That advertisers in said magazine reach, through the medium of said magazine, substantially all of the road building and other heavy equipment buyers located in the area in which the magazine is principally circulated;

[1] 5 F.R. 1633.

4. That said magazine is circulated among 93% of the equipment buyers located in the area in which it is principally circulated or among 98% of such buyers based on volume purchases or among any percentage or number of such buyers greater than the percentage or number among which it is actually circulated;

5. That the average monthly net paid circulation or average monthly distribution of said magazine is greater in number than the actual net paid circulation or the average monthly distribution.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-2915; Filed, July 13, 1940; 11:28 a. m.]

[Docket No. 4008]

IN THE MATTER OF NATIONAL FOLIO SERVICE

§ 3.6 (g) *Advertising falsely or misleadingly—Earnings:* § 3.72 (c) *Offering deceptive inducements to purchase—Excessive earnings.* Representing, in connection with offer, etc., in commerce, of books or pamphlets containing treatises with respect to purported business opportunities, as earnings or profits from the operation of the businesses described in said treatises, any amounts in excess of those which have in fact been regularly and customarily earned by persons operating such businesses under normal conditions, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, National Folio Service, Docket 4008, June 29, 1940]

§ 3.6 (ee) *Advertising falsely or misleadingly—Terms and conditions:* § 3.72 (n10) *Offering deceptive inducements to purchase—Terms and conditions.* Representing, in connection with offer, etc., in commerce, of books or pamphlets containing treatises with respect to purported business opportunities, that the businesses described in said treatises involve no peddling or house-to-house canvassing, when in fact such businesses do require such activities, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, National Folio Service, Docket 4008, June 29, 1940]

§ 3.6 (a) (31) *Advertising falsely or misleadingly — Business status, advantages or connections of advertiser — Unique status or advantages:* § 3.6 (j10) *Advertising falsely or misleadingly—History of product:* § 3.6 (gg) *Advertising falsely or misleadingly—Value.* Representing, in connection with offer, etc., in commerce, of books or pamphlets containing treatises with respect to purported business opportunities, as original or new any plan or business which is not such in fact, or that the formulas involved in the plans or businesses described in said treatises possess any substantial value, or that such formulas are owned exclusively by respondent, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, National Folio Service, Docket 4008, June 29, 1940]

§ 3.6 (f) *Advertising falsely or misleadingly—Demand or business opportunities:* § 3.6 (dd) *Advertising falsely or misleadingly—Special offers:* § 3.6 (ff5) *Advertising falsely or misleadingly—Undertakings, in general:* § 3.72 (g10) *Offering deceptive inducements to purchase—Limited offers:* § 3.72 (p) *Offering deceptive inducements to purchase—Undertakings, in general.* Representing, in connection with offer, etc., in commerce, of books or pamphlets containing treatises with respect to purported business opportunities, that respondent is able to grant to purchasers of said treatises or business plans any rights with respect to the operation of such businesses in any specific territory, or that the period of time within which said treatises or business plans may be obtained from respondent is limited, or that he issues any supplements to said treatises, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, National Folio Service, Docket 4008, June 29, 1940]

IN THE MATTER OF GEORGE W. HAYLINGS, TRADING AS NATIONAL FOLIO SERVICE

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, George W. Haylings, trading as National Folio Service, or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of books or pamphlets containing treatises with respect to purported business opportunities, do forthwith cease and desist from:

(1) Representing as earnings or profits from the operation of the businesses described in said treatises, any amounts in excess of those which have in fact been regularly and customarily earned by persons operating such businesses under normal conditions;

(2) Representing that the businesses described in said treatises involve no peddling or house-to-house canvassing, when in fact such businesses do require such activities;

(3) Representing as original or new any plan or business which is not such in fact;

(4) Representing that the formulas involved in the plans or businesses described in said treatises possess any substantial value, or that such formulas are owned exclusively by respondent;

(5) Representing that respondent is able to grant to purchasers of said treatises or business plans any rights with respect to the operation of such businesses in any specific territory;

(6) Representing that the period of time within which said treatises or business plans may be obtained from respondent is limited;

(7) Representing that respondent issues any supplements to said treatises.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-2916; Filed, July 13, 1940; 11:28 a. m.]

[Docket No. 4045]

IN THE MATTER OF AL VIOLA PRODUCTS

§ 3.6 (t) *Advertising falsely or misleadingly — Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly — Results.* Disseminating, etc., in connection with offer, etc., of respondent's "Al Viola Dental Plate Tightener and Reliner", or other similar preparation, any advertisement by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent, directly or through inference, that, except in unusual and exceptional cases where the condition of the mouth is favorable to the use of such method, the use of said preparation constitutes a competent or effective method for tightening dental plates, or supplies an improved fit for such plates or accomplishes satisfactory results; or that said preparation may be applied effectively by anyone other than an expert; or that the satisfactory use thereof requires no expert assistance; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and

desist order, Al Viola Products, Docket 4045, June 29, 1940]

IN THE MATTER OF GAREY CARR, AN INDIVIDUAL, TRADING AS AL VIOLA PRODUCTS

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1940.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Garey Carr, an individual, trading as Al Viola Products, or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his preparation designated "Al Viola Dental Plate Tightener and Reliner", or of any other preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or under any other name or names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails or (b) by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or through inference, that, except in unusual and exceptional cases where the condition of the mouth is favorable to the use of such method, the use of said preparation constitutes a competent or effective method for tightening dental plates, or supplies an improved fit for such plates or accomplishes satisfactory results; or that said preparation may be applied effectively by anyone other than an expert; or that the satisfactory use of said preparation requires no expert assistance;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisements contain any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40-2917; Filed, July 13, 1940; 11:29 a. m.]

[Docket No. 4147]

IN THE MATTER OF MAYOS PRODUCTS COMPANY, ETC.

§ 3.6 (t) *Advertising falsely or misleadingly — Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety:* § 3.71 (e) *Neglecting, unfairly or deceptively, to make material disclosure—Safety.* Disseminating, etc., in connection with offer, etc., of respondents' "Mayos Periodic Compound" or other similar medicinal preparation, any advertisement by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent, directly or through inference, that said preparation is a cure or remedy or a competent or effective treatment for delayed, scanty, irregular or painful menstruation, or that it is safe or harmless; or which advertisements fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Mayos Products Company, etc., Docket 4147, June 29, 1940]

IN THE MATTER OF GEORGE D. MOORMAN AND ROY C. STOCKBRIDGE, INDIVIDUALLY, AND TRADING AS MAYOS PRODUCTS COMPANY AND AS M. P. COMPANY

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 29th day of June, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, George D. Moorman and Roy C. Stockbridge, individually, and trading as Mayos Products Company and as M. P. Company, or trading under any other name or names, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their medicinal preparation designated "Mayos Periodic Compound", or of any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or under any other name or names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or through inference, that said preparation is a cure or remedy or a competent or effective treatment for delayed, scanty, irregular or painful menstruation; that said preparation is safe or harmless; or which advertisements fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisements contain any of the representations prohibited in paragraph 1 hereof, or which fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user.

It is further ordered, That the respondents shall, within ten days after service upon them of this order, file with the Commission an interim report in writing stating whether they intend to comply with this order and, if so, the manner and form in which they intend to comply; and that within sixty days after the service upon them of this order said respondents shall file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40-2918; Filed, July 13, 1940; 11:29 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

EXEMPTION OF PUBLIC UTILITY SUBSIDIARIES AS TO CERTAIN SECURITIES ISSUED TO THE RURAL ELECTRIFICATION ADMINISTRATION

Acting pursuant to the authority conferred upon it by the Public Utility Hold-

[1] 5 F.R. 1657.

ing Company Act of 1935, particularly sections 3 (d) and 20 (a) thereof, and deeming the exemption hereinafter provided appropriate in the public interest and for the protection of investors and consumers and not contrary to the purposes of the Act, the Securities and Exchange Commission hereby adopts § 250.3D–14 (Rule U-3D–14) to read as follows:

§ 250.3D–14 *Exemption of public utility subsidiaries as to certain securities issued to the Rural Electrification Administration*—(a) *Exemption.* Any public-utility company which is a subsidiary company of a registered holding company shall be exempt from the obligations, duties, or liabilities imposed by the Act or any rule thereunder, on such company as a subsidiary company, with respect to the issue and sale to the Rural Electrification Administration, of any security of which it is the issuer in an amount not exceeding in any one calendar year 2 percent of the outstanding funded indebtedness, plus the aggregate of the capital and surplus accounts of the issuer as of the end of the prior calendar year. Such company shall also be exempt with respect to the pledge of any security or other property as collateral for any security so issued or sold, and with respect to the redemption or retirement, in whole or in part, of any such security.

(b) *Certificate of notification.* Within ten days after the issue or sale of any security exempt under this rule, the issuer shall file with the Commission a certificate of notification on Form U-6B–2 containing the information prescribed by that form.

Effective July 12, 1940. (Sec. 3, 49 Stat. 810; 15 U.S.C., Sup. III, 79c; sec. 20, 49 Stat. 833; 15 U.S.C., Sup. III, 79t) [Gen. Rules and Regs., Rule U-3D–14, effective July 12, 1940]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–2910; Filed, July 12, 1940; 3:43 p. m.]

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T. D. 50192]

RIGHTS, PRIVILEGES, POWERS, AND DUTIES OF THE COMMISSIONER OF CUSTOMS, AND THE DUTIES OF THE PERSONNEL OF THE BUREAU OF CUSTOMS.[1]

JULY 12, 1940.

To the Commissioner of Customs and Others Concerned:

Pursuant to the authority conferred upon the Secretary of the Treasury by the provisions of law cited at the end hereof, the following is hereby ordered:

I—RIGHTS, PRIVILEGES, POWERS, AND DUTIES CONFERRED OR IMPOSED UPON THE COMMISSIONER OF CUSTOMS

(1) There are hereby conferred and imposed upon the Commissioner of Customs, subject to the general supervision and direction of the Secretary of the Treasury, all the rights, privileges, powers, and duties in respect of the importation or entry of merchandise into, or the exportation of merchandise from, the United States, vested in or imposed upon the Secretary of the Treasury by the Tariff Act of 1930, as amended, subject to the following exceptions and conditions:

(a) Whenever in the opinion of the Commissioner of Customs any question pending for decision is of exceptional importance, he shall submit the question to the Secretary of the Treasury, and the decision thereon shall be made by the Secretary of the Treasury and not by the Commissioner of Customs.

(b) All regulations shall be prescribed by the Commissioner of Customs, with the approval of the Secretary of the Treasury, except that regulations and instructions, not inconsistent with the general rules and regulations of the Treasury Department, which are effective only against persons in their capacity as officers, agents, or employees of the Customs Service, and which do not prescribe procedure which the public should know or follow in dealing with the Customs Service, may be prescribed by the Commissioner of Customs without the approval of the Secretary of the Treasury.

(c) Requirements of regulations which may be waived in accordance with law may be waived by the Commissioner of Customs, but if any new question or unusual circumstance is involved the waiver must be approved by the Secretary of the Treasury.

(d) The ascertainment, determination, or estimation, and declaration of bounties or grants under section 303 shall be made by the Commissioner of Customs, with the approval of the Secretary of the Treasury.

(e) Any order under section 511 prohibiting the importation of merchandise or instructing a collector to withhold delivery of merchandise shall be made by the Commissioner of Customs, with the approval of the Secretary of the Treasury.

(f) No claim, fine, or penalty in excess of $5,000 shall be compromised, remitted, or mitigated without the approval of the Secretary of the Treasury.

(g) Any authority which may be vested in the Secretary of the Treasury by proclamation of the President made pursuant to section 318 shall be exercised by the Secretary of the Treasury and not be the Commissioner of Customs.

(h) Awards of compensation to informers under section 619 shall be made by the Commissioner of Customs, with the approval of the Assistant Secretary of the Treasury.

(i) Fines and penalties not exceeding $600 in the aggregate in any one case may be remitted or mitigated by the Deputy Commissioner of Customs designated for the purpose by the Secretary of the Treasury.

(j) Fines or other pecuniary penalties not exceeding $10 in respect of any one offense may be remitted or mitigated by the collector of customs concerned on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate, and the right and power so to do is hereby conferred upon the several collectors and their successors in office.

(k) Any forfeiture not involving merchandise subject to duty in excess of $50 (or valued at not more than $200 if not subject to duty) may be remitted or mitigated by the collector of customs concerned on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate, and the right and power so to do is hereby conferred upon the several collectors and their successors in office.

(2) There is hereby conferred and imposed upon the Commissioner of Customs, subject to the general supervision and direction of the Secretary of the Treasury, the authority vested in the Secretary of the Treasury by section 32 of the act of Congress entitled "An Act to amend and consolidate the Acts respecting copyright," approved March 4, 1909 (United States Code title 17, section 32), to permit the exportation of books imported in violation of the provisions of that act and subject to forfeiture under its terms.

II—ACTING COMMISSIONER, ACTING ASSISTANT COMMISSIONER, AND ACTING DEPUTY COMMISSIONERS

The Secretary of the Treasury will from time to time designate officers of the Bureau of Customs in Washington to act as Commissioner, Assistant Commissioner, or Deputy Commissioner of that Bureau during the absence or disability of any such officer or when there is a vacancy in the office of any such officer.

III—PREVIOUS ORDERS SUPERSEDED

(1) This order shall be effective on and from the date of its approval.

(2) This order supersedes the orders of the Secretary of the Treasury published in T. D. 49047 and T. D. 49818[2] and any instructions and regulations in conflict herewith.

(3) The right to amend or supplement this order, or any part thereof, from time to time, or to revoke this order or any provision thereof, at any time, is expressly reserved. (Secs. 1, 2, 3, 44 Stat. 1381, 1382, sec. 8, 46 Stat. 430, 46 Stat. 1009, secs. 643, 650, 46 Stat.

[1] This document affects 19 CFR 1.6.

[2] 4 F.R. 1251.

761, 762, sec. 1a, E.O. 6639; 5 U.S.C. 281, 281a, 281b, 19 U.S.C. 1643)

[SEAL] H. MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 40-2912; Filed, July 13, 1940; 9:59 a. m.]

TITLE 45—PUBLIC WELFARE

CHAPTER IV—NATIONAL YOUTH ADMINISTRATION

[Administrative Order No. 9]

PART 402—OUT-OF-SCHOOL WORK PROGRAM

TABLE OF CONTENTS

By virtue of and pursuant to the authority vested in the National Youth Administrator by the National Youth Administration Appropriation Act, 1941, approved June 26, 1940, the following rules and regulations are prescribed:

§ 402.1 *Definitions*—(a) *Projects.* The term "projects," as used herein, shall mean projects or portions of projects, for the employment and training of needy youth, which are financed in whole or in part from funds appropriated to the National Youth Administration by the National Youth Administration Appropriation Act, 1941.

(b) *Resident projects.* The term "resident projects," as used herein, shall mean projects which involve the maintenance of youth in camps, institutions, or other resident facilities under the supervision of the National Youth Administration.

(c) *Youth employees.* The term "youth employees," as used herein, shall mean young persons, certified as in need, engaged upon projects, and paid from funds authorized for the operation of such projects. The term "resident youth employees" shall mean youth employees engaged upon resident projects. The term "nonresident youth employees" shall mean youth employees engaged upon other types of projects. "Full-time resident youth employees" shall mean youth employees assigned to resident projects for periods of 30 or more consecutive days in residence. "Part-time resident youth employees" shall mean youth employees assigned to resident projects for periods of less than 30 consecutive days in residence.

(d) *Project supervisory employees.* The term "project supervisory employees," as used herein shall mean persons in supervisory positions engaged upon projects who are paid upon a per diem, monthly, or annual basis by means of pay roll payments from funds authorized for the operation of such projects. The term "non-appointive project supervisory employees" shall mean project supervisory employees assigned to projects and paid upon a per diem or monthly salary basis. The term "appointive project supervisory employees" shall mean project supervisory employees who are appointed by letter, required to work a minimum of 39 hours per week, and compensated for their services upon an annual salary basis.

(e) *State youth administrator.* The term "State Youth Administrator," as used herein, shall mean the person designated to administer the program of the National Youth Administration in each of the several states, in New York City, in the District of Columbia, and in each territory in which the program is operated.*

§ 402.2 *Hours of work for youth employees.* Hours of project work for youth employees shall be established by the State Youth Administrator within a minimum of 40 per month, and a maximum of 8 per day, 40 per week, and 100 per month, except in the case of:

(a) Such projects, portions of projects, or areas as the National Youth Administrator, or his authorized representative, may hereafter exempt;

(b) An emergency involving the public welfare or to protect work already done on a project when so authorized by the State Youth Administrator;

(c) Making up time lost due to conditions which in the judgment of the State Youth Administrator warrant authorizing youth employees to make up lost time; and

(d) Resident projects.*

§ 402.3 *Hours of work for project supervisory employees.* The hours of work for project supervisory employees shall be established by the State Youth Administrator in accordance with the requirements of the project to which the employee is assigned.*

§ 402.4 *Earnings of non-resident youth employees.* The schedule of monthly earnings hereinafter prescribed shall be applicable to non-resident youth employees, except in the case of:

(a) Such projects, portions of projects, or areas as the National Youth Administrator, or his authorized representative may hereafter exempt;

(b) Making up time lost, or in the case of an emergency, as provided in § 402.2; and

(c) Resident projects.

Schedule of Monthly Earnings for Non-Resident Youth Employees

Wage regions	Monthly wages	
	Class B	Class A
I [1]	$18	$24
II [2]	16	22
III [3]	14	20

[1] Region I: California, Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York City, New York State, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin.

[2] Region II: Arizona, Colorado, Delaware, District of Columbia, Idaho, Iowa, Kansas, Kentucky, Maryland, Montana, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Texas, Utah, Virginia, West Virginia, Wyoming.

[3] Region III: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee.

§ 402.5 *Authorized increases in monthly schedule.* The several State Youth Administrators are authorized to make upward adjustments of not to exceed fifty cents (50¢) in the foregoing schedule of earnings in order to avoid the computation of fractional payments of less than one cent (1¢) or the assignment of hours of work which would involve partial hours during any monthly pay period.*

§ 402.6 *Deductions for noonday meals.* The several State Youth Administrators are further authorized to make deductions from the monthly earnings of non-resident youth employees who are furnished noonday meals by the National Youth Administration, provided the deduction rate does not exceed fifteen cents per employee for each day upon which a noonday meal is furnished.*

§ 402.7 *Proportion of workers in each wage class.* Except where exemptions are issued by the National Youth Administrator or his authorized representative, at least 95% of the non-resident youth employees within each state shall be paid in accordance with the schedule

*§§ 402.1 to 402.23 inclusive, issued under authority contained in the National Youth Administration Appropriation Act, 1941, (Labor-Federal Security Appropriation Act, 1941, Pub. No. 665, 76th Cong. 3d Session) approved June 26, 1940.

of earnings prescribed in section 402.4 for Wage Class B. Conversely, not more than 5% of the non-resident youth employees within each state shall be paid in accordance with the schedule of earnings prescribed for Wage Class A.*

§ 402.8 *Earnings of resident youth employees.* The several State Youth Administrators are authorized and directed to establish monthly earnings for resident youth employees, subject to the following conditions:

(a) Except for such projects or portions of projects as the National Youth Administrator, or his authorized representative, may have heretofore exempted from the schedule of monthly earnings for resident projects, established by Administrative Order No. 5, dated September 15, 1939, or may hereafter exempt, the earnings rate shall not exceed thirty dollars ($30) per pay roll month for full-time resident youth employees, or twenty dollars ($20) per pay roll month for part-time resident youth employees, with an appropriate charge for subsistence, including items such as lodging, food, sanitation, water and bathing facilities, and medical and dental care; provided that such subsistence charges shall be established on a basis which will permit a net payment of not less than eight dollars ($8) per pay roll month to resident youth employees.

(b) Not more than two wage classes shall be established for full-time or part-time youth employees or any single resident project.

For full-time resident youth employees, deductions for voluntary absence from duty shall be made in the amount of one-thirtieth of the monthly salary for each day of voluntary absence. For part-time resident youth employees, deduction for voluntary absence from duty shall be made on the basis of the ratio which the number of days of voluntary absence bears to the total number of days of assignment during the pay roll month. State Youth Administrators, or their authorized representatives, shall schedule hours of work for youth employees on resident projects. Deductions for voluntary absence from duty shall be made only when youth employees are voluntarily absent during periods when they are scheduled to work. The minimum deduction shall be one-fourth the deduction made for a full-day, and all deductions for voluntary absence during a portion of a day shall be made in multiples thereof. No deduction shall be made against either full-time or part-time resident youth employees for any day or days upon which the employees are not required to work.*

§ 402.9 *Earnings of project supervisory employees.* The State Youth Administrator is authorized and directed to establish per diem, monthly, and annual salaries for project supervisory employees which shall be not less than the wages customarily paid for work of a similar nature in the same locality. Earnings for project supervisory employees established on a per diem, monthly, and annual salary basis are subject to the following conditions:

(a) Project supervisory employees, who are assigned to work for periods of less than 100 hours per pay roll month or who are assigned to work for indefinite periods per pay roll month, shall be compensated upon a per diem basis of payment from funds authorized for the operation of projects. Project supervisory employees paid on a per diem basis, shall be paid for their actual days, or fractions of days, of service.

(b) Project supervisory employees, who are assigned to work for definite schedules of not less than 100 hours per pay roll month, shall be compensated for their services upon a monthly salary basis from funds authorized for the operation of projects. For such non-appointive project supervisory employees, deductions for voluntary absence from duty shall be made in the amount of one-thirtieth of the monthly salary for each day of voluntary absence. However, no deduction shall be made for any day or days upon which the employee is not required to work. The minimum deduction for voluntary absence from duty shall be one-fourth the deduction made for absence during a full day, and all deductions for voluntary absence during a portion of a day shall be made in multiples thereof.

(c) Appointive project supervisory employees shall be subject to the regulations relating to salary payments and leave benefits prescribed for civil employees of the Federal Government.*

§ 402.10 *State youth administrator's orders.* Pursuant to authorities prescribed in this Order, each State Youth Administrator is authorized to issue State Youth Administrator's Orders as follows:

(a) *Wage orders*—(1) *For non-resident projects.* State Youth Administrator's Orders which shall constitute schedules of monthly earnings and assigned hours of work for each class of youth employee assigned to non-resident projects. Where exemptions are authorized, supplemental schedules may be issued to cover special determinations for individual projects, portions of projects, or for specified local areas.

(2) *For resident projects.* State Youth Administrator's Orders, applicable to specified resident projects, establishing monthly earnings for each class of youth employee assigned thereto.

(b) *Subsistence orders*—(1) *For non-resident projects.* Orders designating projects at which noonday meals may be furnished to youth employees on a pay roll deduction basis and establishing the deduction rates applicable thereto.

(2) *For resident projects.* Orders establishing deduction rates, applicable to specified resident projects for items of subsistence furnished to employees assigned thereto.*

§ 402.11 *Injury compensation.* Employees of the Federal Government paid from funds appropriated to the National Youth Administration, if injured in the performance of duty and unable to work as a result thereof, shall be entitled to receive payment of compensation under the provisions of the Act of February 15, 1934 (48 Stat. 351) as amended.*

§ 402.12 *Assignment of wages.* Wages paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment shall be null and void.*

§ 402.13 *Certification of need.* Youth employees shall be certified as in need. The State Youth Administrator may request public relief agencies to certify eligible youth known to such agencies, and direct applications to the National Youth Administration by eligible youth shall also be accepted for certification. For the purpose of certification, a youth shall be considered as needy if he is:

(a) A member of a family whose income is insufficient to provide the basic requirements of all members of the family, including the youth member, regardless of whether the family is receiving or eligible for any form of public assistance; or

(b) Without family connections and his income is insufficient to provide his basic requirements.*

§ 402.14 *Age.* Except for such exemptions as the National Youth Administrator, or his authorized representative, may issue from the age requirements prescribed in this section, no person under the age of 18 years and no person whose age is 25 years or more, except project supervisory employees, may be employed upon projects financed from funds appropriated to the National Youth Administration.*

§ 402.15 *Capacity to perform work.* No person shall be employed or retained in employment if his work habits are such or his work record shows that he is incapable of performing satisfactorily the work to which he may be assigned, and no one whose physical condition is such as to make his employment dangerous to his health or safety, or to the health or safety of others, may be employed on a project. This paragraph shall not be construed to operate against the employment of physically handicapped persons, otherwise employable, where such persons may be safely assigned to work which they can ably perform.*

§ 402.16 *Citizenship.* No alien shall be eligible for any employment which is compensated from funds appropriated to the National Youth Administration and no part of the appropriation shall be available for the payment of any person who has not made an affidavit as to his United States citizenship, such affidavit to be considered prima facie evidence of citizenship.*

§ 402.17 *Advocacy of overthrow of Government.* No person who advocates,

or who is a member of an organization that advocates, the overthrow of the Government of the United States through force or violence shall be eligible for any employment which is compensated from funds appropriated to the National Youth Administration.*

§ 402.18 *Oath of allegiance.* No person shall be eligible for any employment which is compensated from funds appropriated to the National Youth Administration until such person executes the following oath:

"I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office (or employment) on which I am about to enter (or which I now occupy). So help me God."*

§ 402.19 *Safety.* All work projects shall be conducted in accordance with safe working conditions, and every effort shall be made for the prevention of accident.*

§ 402.20 *Private employment.* Youth employees shall be expected to accept bona fide offers of public or private employment provided that:

(a) The employee is capable of performing such work;

(b) The wage for such employment is not less than the prevailing wage for such work in the community;

(c) Such employment is not in conflict with established union relationships; and

(d) Such employment provides reasonable working conditions.

No youth employee who refuses a bona fide offer of private employment under the conditions provided in this section shall be retained in employment for the period such private employment would be available. However, a worker shall be entitled to immediate resumption of his previous employment status if he is still in need and if he has lost his private employment through no fault of his own. Youth awaiting assignment who refuse to accept private employment shall be ineligible for employment on any project for the period during which the private employment would be available.*

§ 402.21 *Assignment, classification and separation.* The State Youth Administrator, or his authorized representatives, shall be responsible for the assignment, classification, transfer and termination of youth employees paid from funds appropriated to the National Youth Administration.*

§ 402.22 *Illegal activities.* Under the National Youth Administration Appropriation Act of 1941, the activities listed below are punishable as felonies. No employee of this Administration who commits any of the following offenses shall be eligible for any further employment which is compensated from funds appropriated to this Administration.

(a) Making any false statement in connection with any application for any project;

(b) Diverting, attempting to divert, or assisting in diverting for the benefit of any persons not entitled thereto, any funds, services or real or personal property of the National Youth Administration;

(c) Depriving, attempting to deprive, or assisting in depriving any person of any of the benefits to which he may be entitled under the appropriation by means of fraud, force, threat, intimidation, boycott, or discrimination on account of race, religion, political affiliation, or membership in a labor organization.*

§ 402.23 *Effective date.* With the exception of §§ 402.4, 402.5, and 402.7, these rules and regulations shall become effective at the beginning of pay roll periods on and after July 1, 1940. Sections 402.4, 402.5, and 402.7 shall become effective at the beginning of pay roll periods on and after August 1, 1940. Until the effective date of §§ 402.4, 402.5, and 402.7, the provisions of sections 9, 10, and 12 of Administrative Order No. 5, with authorized exemptions thereto, shall remain in effect. All other sections of Administrative Order No. 5, as well as Administrative Orders No. 6, No. 7, and No. 8, are hereby superseded. Sections 9, 10 and 12 of Administrative Order No. 5 shall be superseded and rescinded upon the effective date of §§ 402.4, 402.5, and 402.7 of this order.

AUBREY WILLIAMS,
Administrator.

Approved, June 26, 1940.

PAUL V. MCNUTT,
Federal Security Administrator.

[F. R. Doc. 40-2907; Filed, July 12, 1940; 12:28 p. m.]

[Administrative Order No. 10]

PART 403—STUDENT WORK PROGRAM

TABLE OF CONTENTS

By virtue of and pursuant to the authority vested in the National Youth Administrator by the National Youth Administration Appropriation Act, 1941, approved June 26, 1940, the following rules and regulations are prescribed:

§ 403.1 *Definitions*—(a) *Student work program.* The term "student work program," as used herein, shall mean the program, financed in whole or in part from funds appropriated to the National Youth Administration, which provides for the part-time employment of needy students who are in regular attendance at schools, colleges and universities, in order to enable such students to continue properly their education. Schools, colleges and universities participating in the student work program are required to be non-profit making, tax-exempt, bona fide educational institutions and so certified by the principal state educational officer.

(b) *School work program.* The term "school work program," as used herein, shall mean that part of the student work program which provides for the part-time employment of needy students who are in regular attendance at approved institutions not requiring high school graduation or the equivalent for entrance.

(c) *College and graduate work program.* The term "college and graduate work program," as used herein, shall mean that part of the student work program which provides for the part-time employment of needy students who are in regular attendance at approved institutions requiring, as a minimum, high school graduation or the equivalent for entrance. The program for undergraduate or professional students who have not obtained their bachelor's degree, or the equivalent, is referred to in this order as the "college work program." The program for students who have obtained their bachelor's degree, or the equivalent, and are pursuing graduate work is referred to in this order as the "graduate work program."

(d) *Student work employees.* The term "student work employees," as used herein, shall mean needy students between the ages of 16 and 24 years inclusive, who are in regular attendance at institutions participating in the student work program and who are employed on a part-time basis and paid by means of pay roll payments from funds authorized for the operation of the student work program.

(e) *Supervisory employees.* The term "supervisory employees," as used herein, shall mean appointive and non-appointive employees of the National Youth Administration who are responsible for the general supervision of the student work program and who are paid upon a per diem, monthly, or annual basis by

means of pay roll payments from funds authorized for the operation of the student work program. The term "appointive supervisory employees" shall mean supervisory employees, who are appointed by letter from the State Youth Administrator, or his authorized representative, required to work a minimum of 39 hours per week, and compensated for their services upon an annual salary basis. The term "non-appointive supervisory employees" shall mean supervisory employees assigned to the student work program and paid upon a per diem or monthly salary basis.

(f) *State youth administrator.* The term "State Youth Administrator," as used herein, shall mean the person who administers the program of the National Youth Administration in each of the several states, in New York City, in the District of Columbia, and in each territory in which the program is operated.*

§ 403.2 *Hours of work for student work employees.* The authorized representative of each institution participating in the student work program shall be responsible for establishing hours of work for student work employees in attendance at the institution in accordance with the following provisions:

(a) Hours shall be limited to that number which in relation to the established monthly earnings most accurately reflects the rate of pay prevailing in the locality for the same type of work.

(b) The maximum hours of work under the school work program shall be four hours per day on school days and seven hours per day on non-school days.

(c) The maximum hours of work under the college and graduate work program shall be eight hours per day.*

§ 403.3 *Hours of work for supervisory employees.* The hours of work for non-appointive supervisory employees shall be established by the State Youth Administrator in accordance with the requirements of the program.*

§ 403.4 *Earnings of student work employees.* Except where exemptions are granted by the National Youth Administrator, or his authorized representative, the monthly earnings of student work employees shall be established within the following limits:

	Minimum	*Maximum*
School Work Program	$3.00	$6.00
College Work Program	10.00	20.00
Graduate Work Program	10.00	30.00

*

§ 403.5 *Earnings of supervisory employees.* The State Youth Administrator is authorized and directed to establish per diem, monthly, and annual salaries for supervisory employees, which shall be not less than the wages customarily paid for work of a similar nature in the same locality. Earnings for supervisory employees are subject to the following conditions:

(a) Supervisory employees, who are assigned to work for periods of less than 100 hours per pay roll month or who are assigned to work for indefinite periods per pay roll month, shall be compensated upon a per diem basis of payment. Supervisory employees paid on a per diem basis, shall be paid for their actual days, or fractions of days, of service.

(b) Supervisory employees, who are assigned to work for definite schedules of not less than 100 hours per pay roll month shall be compensated for their services upon a monthly salary basis. For such non-appointive supervisory employees, deductions for voluntary absence from duty shall be made in the amount of one-thirtieth of the monthly salary for each day of voluntary absence. However, no deduction shall be made for any day or days upon which the employee is not required to work. The minimum deduction for voluntary absence from duty shall be one-fourth the deduction made for absence during a full day, and all deductions for voluntary absence during a portion of a day shall be made in multiples thereof.

(c) Appointive supervisory employees shall be subject to the regulations relating to salary payments and leave benefits prescribed for civil employees of the Federal Government.*

§ 403.6 *Assignment of wages.* Wages paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment shall be null and void.*

§ 403.7 *Need.* Each student work employee must be able to qualify on the basis of need for such employment as he may receive. It shall be determined by officials of the institution that employment on the student work program is essential to enable the student to continue properly his education. Consultation with outside agencies to determine this need is recommended.*

§ 403.8 *Age.* No person under the age of 16 years and no person whose age is 25 years or more, except supervisory employees, may be employed on the student work program.*

§ 403.9 *Requirements relating to scholarship.* Students participating in the student work program shall be regular students carrying at least three-fourths of the normal schedule. They shall be of good character and shall possess such ability that they can give assurance of performing good scholastic work. Part-time employment of students who fail to maintain a satisfactory standing in at least three-fourths of their scholastic work shall be discontinued.*

§ 403.10 *Requirements relative to performance of work.* No person shall be employed or retained in employment if his work habits are such, or his work record shows, that he is incapable of performing satisfactorily the work to which he may be assigned.*

§ 403.11 *Citizenship.* No alien shall be eligible for any employment which is compensated from funds appropriated to the National Youth Administration and no part of the appropriation shall be available for the payment of any person who has not made an affidavit as to his United States citizenship, such affidavit to be considered prima facie evidence of citizenship.*

§ 403.12 *Advocacy of overthrow of Government.* No person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States through force or violence shall be eligible for any employment which is compensated from funds appropriated to the National Youth Administration.*

§ 403.13 *Oath of allegiance.* No person shall be eligible for any employment which is compensated from funds appropriated to the National Youth Administration until such person executes the following oath:

"I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the Office (or employment) on which I am about to enter (or which I now occupy). So help me God."*

§ 403.14 *Illegal activities.* Under the National Youth Administration Appropriation Act of 1941, the activities listed below are punishable as felonies. No employee of this Administration who commits any of the following offenses shall be eligible for any further employment which is compensated from funds appropriated to this Administration:

(a) Making any false statement in connection with any application for any project.

(b) Diverting, attempting to divert, as assisting in diverting for the benefit of any persons not entitled thereto, any funds, services or real or personal property of the National Youth Administration.

(c) Depriving, attempting to deprive, or assisting in depriving any person of any of the benefits to which he may be entitled under the appropriation by means of fraud, force, threat, intimidation, boycott, or discrimination on account of race, religion, political affiliation, or membership in a labor organization.*

§ 403.15 *Assignment of work.* Officials of the participating institution shall be responsible for assigning student work employees to suitable work and for direct supervision of the work done by students.*

*Sections 403.1 to 403.17 inclusive, issued under authority contained in the National Youth Administration Appropriations Act, 1941, (Labor-Federal Security Appropriation Act, 1941, Pub. No. 665, 76th Cong. 3d Session) approved June 26, 1940.

§ 403.16 *Safety.* The student work program shall be conducted in accordance with safe working conditions, and every effort shall be made for the prevention of accident.*

§ 403.17 *Effective date.* These rules and regulations shall become effective at the beginning of pay roll periods on and after July 1, 1940, and shall supersede Administrative Order No. 3 of the National Youth Administration, dated July 17, 1939, which shall be rescinded upon the effective date of this Order.*

AUBREY WILLIAMS,
Administrator.

Approved, June 26, 1940.

PAUL V. MCNUTT,
Federal Security Administrator.

[F. R. Doc. 40–2908; Filed, July 12, 1940; 12:28 p. m.]

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 40]

SUBCHAPTER A—DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

JULY 13, 1940.

Section 1.1, *Customs ports authorized to issue marine documents,* is hereby amended to read as follows:

ATLANTIC AND GULF COASTS

Maine and New Hampshire (*1*). Eastport, Calais, Jonesport, Bar Harbor, Bangor, Belfast, Rockland, Bath, Portland*, Portsmouth.

Massachusetts (*4*). Gloucester, Salem, Boston*, New Bedford, Fall River, Plymouth [1].

Rhode Island (*5*). Providence*, Newport.

Connecticut (*6*). New London, Hartford, New Haven, Bridgeport*.

New York (*10*). New York*, Albany, Newark, Perth Amboy.

Philadelphia (*11*). Philadelphia*, Wilmington.

Maryland (*13*). Baltimore*, Annapolis, Crisfield, Cambridge, Washington.

Virginia (*14*). Alexandria, Reedville, Newport News*, Norfolk*, Cape Charles.

North Carolina (*15*). Elizabeth City, Washington, Beaufort, Wilmington*.

South Carolina (*16*). Georgetown, Charleston*.

Georgia (*17*). Savannah*, Brunswick.

Florida (*18*). Fernandina, Jacksonville, St. Augustine, Miami, Key West, Tampa*, Apalachicola, Pensacola.

Mobile (*19*). Mobile*, Biloxi, Gulfport (see also Rivers).

New Orleans (*20*). New Orleans* (see also Rivers).

Sabine (*21*). Port Arthur*, Beaumont, Lake Charles, La.

Galveston (*22*). Galveston*, Houston, Corpus Christi.

Laredo (*23*). Laredo*, Brownsville [2].

Puerto Rico (*49*). San Juan*.

Virgin Islands (*51*). St. Thomas*.

WESTERN RIVERS

New Orleans (*20*). New Orleans*, Baton Rouge (see also Gulf).

Tennessee (*43*). Memphis*, Nashville, Chattanooga.

Mobile (*19*). Mobile*, (see also Gulf).

Kentucky (*42*). Louisville*.

St. Louis (*45*). St. Louis*, Kansas City.

Omaha (*46*). Omaha*.

Dakota (*34*). Pembina*.

Montana and Idaho (*33*). Great Falls*.

Minnesota (*35*). Minneapolis*.

Duluth and Superior (*36*). Duluth* (see also Lakes).

Wisconsin (*37*). Milwaukee* (see also Lakes).

Chicago (*39*). Chicago*, Peoria (see also Lakes).

Indiana (*40*). Indianapolis*, Evansville.

Ohio (*41*). Cincinnati (see also Lakes).

Pittsburgh (*12*). Pittsburgh*.

NORTHERN LAKES

Vermont (*2*). St. Albans*, Burlington.

St. Lawrence (*7*). Rouses Point, Ogdensburg*, Cape Vincent.

Rochester (*8*). Oswego, Rochester*.

Buffalo (*9*). Buffalo*.

Ohio (*41*). Erie, Cleveland*, Sandusky, Toledo (see also Rivers).

Michigan (*38*). Detroit*, Port Huron, Sault Ste. Marie, Muskegon.

Chicago (*39*). Chicago* (see also Rivers).

Wisconsin (*37*). Milwaukee* (see also Rivers).

Duluth and Superior (*36*). Duluth* (see also Rivers).

PACIFIC COAST

San Diego (*25*). San Diego*.

Los Angeles (*27*). Los Angeles*, Port San Luis.

San Francisco (*28*). San Francisco-Oakland*, Eureka.

Oregon (*29*). Marshfield, Astoria, Portland*.

Washington (*30*). Tacoma, Seattle*, Bellingham, Port Townsend, Port Angeles, Aberdeen.

Alaska (*31*). Ketchikan, Hyder, Wrangell, Petersburg, Eagle, Juneau*, Sitka, Skagway, Cordova, Fairbanks.

Hawaii (*32*). Honolulu*.

The grand divisions are printed in small capitals, the district names in italics, with the numbers enclosed in parentheses, and the ports in roman with asterisks (*) to indicate the headquarters ports. Marine documents are not issued at the headquarters ports of Indianapolis, St. Albans and Laredo, nor in the districts of El Paso (24), Arizona (26), and Colorado (47).

Marine documents may be issued at the port of Washington, N. C. Washington is a customs station, but not a port of entry.

A duplicate of each marine document issued to a vessel together with the surrendered original, if there is one, should be sent to the headquarters port for review. All duplicates, surrendered originals, and copies of lost originals must be forwarded from the headquarters port to the Director of the Bureau of Marine Inspection and Navigation at the end of each day.

A license may be renewed by endorsement by the collector at the headquarters port or by any deputy collector within that particular district, but a notice of such renewal, Form 1302, must be sent to the port at which the license was issued, and to the home port.

Additional ports will be designated as ports of documentation when this action is required by the exigencies of the service.

[Section 161 R.S. (5 U.S.C. 22); Sections 2 and 3 of the Act of July 5, 1884 (23 Stat. 118) (46 U.S.C. 2 and 3)]

[SEAL] SOUTH TRIMBLE, Jr.,
Acting Secretary of Commerce.

[F. R. Doc. 40–2919; Filed, July 13, 1940; 11:59 a. m.]

[Order No. 41]

SUBCHAPTER A—DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

JULY 15, 1940.

Subsection (a) of § 5.13 *Shipping Articles and Enforcement of Seamen's Act* is amended to read as follows:

"(a) Shipping articles (Commerce Form 705, 705–A, or 705–B) in duplicate, must be presented at the port of final departure for every vessel of the United States bound to a foreign port, and the collector will certify (Commerce Form 1435) the duplicates of the articles before a clearance is granted."

(Section 4575 R.S., as amended, 46 U.S.C. 676; section 161 R.S., 5 U.S.C. 22)

[SEAL] SOUTH TRIMBLE, Jr.,
Acting Secretary of Commerce.

[F. R. Doc. 40–2931; Filed, July 15, 1940; 11:25 a. m.]

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[1] The designation of the customs port of Provincetown, Mass., as a port of documentation is revoked, effective July 15, 1940. The designation of the customs port of Plymouth, Mass., as a port of documentation, is effective on July 15, 1940, and that port will thereafter be the home port of all vessels whose home port on July 15, 1940, is Provincetown, Mass. In the event that owners of vessels desire that a port other than Plymouth be designated as the home port of their vessels, the approval of the Director of the Bureau of Marine Inspection and Navigation, Department of Commerce, should be obtained.

[2] The designation of the customs port of Brownsville, Texas, as a port of documentation, is effective on July 15, 1940.

TITLE 49—TRANSPORTATION AND RAILROADS

CHAPTER I—INTERSTATE COMMERCE COMMISSION

INSPECTION AND TESTING OF LOCOMOTIVES AND TENDERS

Present: William J. Patterson, Commissioner, to whom the above-entitled matter has been assigned for action thereon.

Whereas, by order dated April 12, 1940,[1] each and every common carrier by railroad subject to the provisions of the Locomotive Inspection Law,[2] as amended March 4, 1915, June 7, 1924, and June 27, 1930, and all other interested parties were directed to show cause, if any there was, by a formal return filed with the Commission on or before July 1, 1940, as to why Rule 116 (b) of the Rules and Instructions for the Inspection and Testing of Steam Locomotives and Tenders and their Appurtenances should not be amended to read as follows:

The front cab doors or windows of road locomotives used in regions where snowstorms are generally encountered shall be provided with what is known as a "clear vision" window, or an appliance that will clean the outside of such doors or windows over sufficient area to provide a clear view of track and signals ahead. If a "clear vision" window is used it shall be not less than 5 inches high located as nearly as possible in line of the engineman's vision and so constructed and fitted that it may be easily opened, closed and fastened in desired position.

And whereas, no cause has been shown by any said common carrier or party, within the time specified by the order, why said rule should not be so amended; therefor,

It is ordered, That Rule 116 (b) of the Rules and Instructions for the Inspection and Testing of Steam Locomotives and Tenders and their Appurtenances, be and the same is hereby amended to read of follows:

(b) The front cab doors or windows of road locomotives used in regions where snowstorms are generally encountered shall be provided with what is known as a "clear vision" window, or an appliance that will clean the outside of such doors or windows over sufficient area to provide a clear view of track and signals ahead. If a "clear vision" window is used it shall be not less than 5 inches high located as nearly as possible in line of the engineman's vision and so constructed and fitted that it may be easily opened, closed and fastened in desired position.

It is further ordered, That a copy of this order shall be served upon each and every common carrier by railroad subject to the Locomotive Inspection Law, as amended, and upon all national organizations of railroad employees, and that notice be given to the general public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C.

Dated at Washington, D. C., this 2nd day of July, A. D. 1940.

By the Commission, Commissioner Patterson.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 40-2911; Filed, July 13, 1940; 9:03 a. m.]

[1] 5 F.R. 1523.
[2] 36 Stat. 913.

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 333-FD]

APPLICATION OF THE GENERAL CLAY PRODUCTS COMPANY

ORDER GRANTING RENEWAL OF EXEMPTION

The General Clay Products Company of Columbus, Ohio, Applicant herein, having on January 12, 1938, filed with the National Bituminous Coal Commission a verified application for exemption with respect to certain bituminous coal produced by the Applicant at its mine located in Tuscarawas County, Ohio, and transported by the Applicant to itself for consumption by it in its clay products plant located in Tuscarawas County, Ohio;

The Commission, having on May 10, 1939, entered an order pursuant to a hearing held on said application at Zanesville, Ohio, on May 24, 1938, in Docket No. 333-FD, ordering that the provisions of Section 4, II (1) of the Bituminous Coal Act of 1937 apply to the bituminous coal produced by the Applicant at its mine located in Tuscarawas County, Ohio, and consumed by it in its clay products manufacturing plant located in Tuscarawas County, Ohio, and that such coal shall not be deemed subject to the provisions of section 4 of the Bituminous Coal Act of 1937, and further ordering the Applicant to apply annually thereafter and at such other times as the Commission may require for renewal of said order, and to file such accompanying reports as will enable the Commission to determine whether the facts as found in said order continue to exist;

Applicant, on June 29, 1940, having filed with the Bituminous Coal Division an application for renewal of said order, which application contains a statement of the quantities of coal produced by Applicant for the period of one year preceding the date of the application for renewal, at its mine located in Tuscarawas County, Ohio, and a statement that the facts set forth in the application for exemption filed January 12, 1938, remain true and correct;

The Director having determined that the conditions supporting the exemption granted by the order dated May 10, 1939, continue to exist:

It is ordered, That the application filed by the Applicant for the renewal of said order dated May 10, 1939, be and the same is hereby granted;

Provided, however, That the said order dated May 10, 1939, shall automatically terminate and expire:

1. Unless the Applicant on or before December 26, 1940, files with the Director a verified report for the six month period ending December 10, 1940, containing the following information which the Director hereby finds to be necessary and appropriate to enable him to determine whether the conditions supporting the exemption granted to the Applicant continue to exist:

(a) The full name and business address of the Applicant and the name and location of the mine covered by this application;

(b) The total tonnage of bituminous coal produced by the Applicant during the preceding six months at such mine;

(c) The total tonnage of such production which was consumed by the Applicant, and the nature and purpose of such consumption;

(d) A statement that all of the facts set forth in the original application for exemption filed January 12, 1938, remain true and correct.

2. Unless the Applicant shall immediately notify the Director upon:

(a) Any change in the ownership of the mine from which the coal in question was produced, or in the ownership of the plant or factory or other facilities at which the coal is consumed;

(b) Any change in the agency or instrumentality through which the coal is being produced on the date of this order.

It is further ordered, That the Director at any time, upon his own motion or upon the petition of any interested person, may direct the Applicant to show cause why the exemption granted by the order of May 10, 1939, should not be terminated. Any persons filing such a petition shall serve a copy thereof upon the Applicant herein.

Dated, July 12, 1940.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 40-2932; Filed, July 15, 1940; 11:47 a. m.]

DEPARTMENT OF AGRICULTURE.

Surplus Marketing Administration.

AMENDED DESIGNATION OF AREA UNDER SURPLUS FOOD STAMP PROGRAM

The designation of Davidson County, Tennessee, as an area under the Surplus Food Stamp Program, published in the

FEDERAL REGISTER on May 22, 1940, at page 1844, is amended to read as follows:

"The area within the county limits of Davidson County, Tennessee, and such area adjacent thereto as may seem desirable to effectuate the program. The posting of the definition of 'and such area adjacent thereto' in the office of the local representative of the Surplus Marketing Administration shall constitute due notice thereof."

The designation of Greenville County, South Carolina, as an area under the Surplus Food Stamp Program, published in the FEDERAL REGISTER on February 27, 1940, at page 770, is amended to read as follows:

"The area within the county limits of Greenville County, South Carolina, and such area adjacent thereto as may seem desirable to effectuate the program. The posting of the definition of 'and such area adjacent thereto' in the office of the local representative of the Surplus Marketing Administration shall constitute due notice thereof."

The designation of Tulsa County, Oklahoma, and Okmulgee County, Oklahoma, as areas under the Surplus Food Stamp Program, published in the FEDERAL REGISTER on April 23, 1940, at page 1521, is amended to read as follows:

"The area within the county limits of Tulsa County, Oklahoma, and such area adjacent thereto as may seem desirable to effectuate the program.

"The area within the county limits of Okmulgee County, Oklahoma, and such area adjacent thereto as may seem desirable to effectuate the program.

"The posting of the definition of 'and such area adjacent thereto' in the office of the local representative of the Surplus Marketing Administration shall constitute due notice thereof."

The designation of Allegheny County, Pennsylvania, as an area under the Surplus Food Stamp Program, published in the FEDERAL REGISTER on January 23, 1940, at page 247, is amended to read as follows:

"The area within the county limits of Allegheny County, Pennsylvania, and such area adjacent thereto as may seem desirable to effectuate the program. The posting of the definition of 'and such area adjacent thereto' in the office of the local representative of the Surplus Marketing Administration shall constitute due notice thereof."

[SEAL] PHILIP F. MAGUIRE,
Assistant Administrator.

JULY 12, 1940.

[F. R. Doc. 40-2921; Filed, July 13, 1940; 12:22 p. m.]

DEPARTMENT OF LABOR.

Children's Bureau.

IN THE MATTER OF THE PROPOSED FINDING AND ORDER RELATING TO THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE IN COAL-MINE OCCUPATIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

JULY 12, 1940.

Whereas, section 12 (a) of the Fair Labor Standards Act of 1938 (Act of June 25, 1938, chapter 676, 52 Stat. 1060, U. S. Code, Supp. IV, title 29, section 201) prohibits the shipment or delivery for shipment of goods in commerce, as defined in the Act, which are produced in establishments situated in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor has been employed; and

Whereas, section 3 (l) of the said Act which defines oppressive child labor provides in part as follows:

(l) "Oppressive child labor" means a condition of employment under which (1) an employee under the age of sixteen years is employed by an employer * * * in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in an occupation which the Chief of the Children's Bureau in the Department of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being * * *."

and

Whereas, the Chief of the Children's Bureau issued on November 3, 1938, a regulation prescribing the "Procedure Governing Determinations of Hazardous Occupations";[1] and

Whereas, pursuant to the said regulation, an investigation was conducted with respect to the hazardous nature of coal-mine occupations with special reference to the employment of minors between 16 and 18 years of age; and

Whereas, a report of the investigation was submitted to the Chief of the Children's Bureau; and

Whereas, a finding and order relating to coal-mine occupations was proposed for final adoption by the Chief of the Children's Bureau under the authority of section 3 (l) of the said Act; and

Whereas, a public hearing was held in Washington, D. C., on June 28, 1940, by a presiding officer designated by the Chief of the Children's Bureau, pursuant to public notice of the time and place thereof published in the FEDERAL REGISTER on June 11, 1940,[2] at which public hearing all parties appearing were given opportunity to be heard with respect to the said proposed finding and order, to question witnesses, and to file briefs and additional statements subsequent to the hearing; and

Whereas, all such information and arguments submitted in connection with the said hearing have been carefully considered and upon the basis thereof it has been found appropriate to make a change in the provisions of the proposed finding and order,

Now, therefore, notice is hereby given that objections will be received for a period of 15 days following publication in the FEDERAL REGISTER of the following proposed finding and order, as revised, after which time the proposed finding and order, as revised, will be made final by the Chief of the Children's Bureau unless, in her opinion, objections thereto disclose just cause for further revision thereof.

Proposed Finding and Order

TITLE 29—LABOR

CHAPTER IV—CHILDREN'S BUREAU

CHILD LABOR

PART 422—OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

§ 422.3 *Coal-mine occupations* — (a) *Finding of fact.* By virtue of and pursuant to the authority conferred by section 3 (l) of the Fair Labor Standards Act of 1938[3] and pursuant to the regulation prescribing the "Procedure Governing Determinations of Hazardous Occupations";[4] an investigation having been conducted with respect to the hazards for minors between 16 and 18 years of age in employment in coal-mine occupations; a report of the investigation having been submitted to the Chief of the Children's Bureau showing that:

1. Work in or about coal mines involves an exceptionally high degree of accident risk, in comparison not only with manufacturing as a whole but also with most other industries for which adequate injury statistics are available.

2. In risk of fatal injury, coal-mine work exceeds manufacturing to an even greater degree than it does in the risk of disabling injuries in general.

3. The high accident risk in coal-mine work extends to both the anthracite and bituminous industries and involves all types of coal-mine operations—underground, open-cut, and surface work.

4. All underground occupations, all occupations in open-cut operations, and all surface occupations, with the apparent exception of slate picking and work in offices and in repair and maintenance shops located on the surface, involve exposure to serious accident hazards.

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[1] 3 F.R. 2640.
[2] 5 F.R. 2183.
[3] Act of June 25, 1938, c. 676, 52 Stat. 1060, U.S. Code, Supp. IV, ti. 29, sec. 201.
[4] Issued November 3, 1938, pursuant to authority conferred by section 3 (l) of the Fair Labor Standards Act of 1938, published at 3 F.R. 2640.

5. The accident risk in coal-mine work is probably particularly high for young persons, who are characteristically lacking in the experience and caution needed for work in or about coal mines.

6. State legislation, which reflects public recognition of the particular hazards of coal-mine work for young people, has established higher minimum-age standards for work in or about coal mines than for general employment in the majority of the coal-producing States.

7. Employment policies, as developed by operators and through union agreements in the coal-mining industry, frequently recognize a minimum age for coal-mine work that is higher than that established by law.

8. Many safety engineers, mine inspectors, and other experts consulted have expressed the opinion that, in view of the hazards of coal-mine work, minors under 18 should not be employed at either underground or surface work. Many others who were of the same opinion with regard to underground work believed that certain surface occupations were not particularly hazardous and should be permitted for minors between 16 and 18 years of age;

a finding and order relating to the employment of minors between 16 and 18 years of age in the said occupations having been proposed for final adoption by the Chief of the Children's Bureau upon the basis of the said report of investigation; a public hearing having been held with respect to the said proposed finding and order; all statements submitted in connection with the said hearing having been carefully considered; and sufficient reason appearing therefor,

Now, therefore, I, Katharine F. Lenroot, Chief of the Children's Bureau of the United States Department of Labor, hereby find that all occupations in or about any coal mine, except the occupation of slate or other refuse picking at a picking table or picking chute in a tipple or breaker or occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal-mining plant, are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Order.* Accordingly, I hereby declare that all occupations in or about any coal mine, except the occupation of slate or other refuse picking at a picking table or picking chute in a tipple or breaker or occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal-mining plant, are particularly hazardous for the employment of minors between 16 and 18 years of age.

Definitions. For the purpose of this order—

(1) The term "coal" shall mean any rank of coal, including lignite, bituminous, and anthracite coals.

(2) The term "all occupations in or about any coal mine" shall mean all types of work performed in any underground working, open pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning or other handling of coal.

This order shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established herein. This order shall become effective on September 1, 1940, and shall be in force and effect until amended or repealed by order hereafter made and published by the Chief of the Children's Bureau.

[SEAL] KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 40-2924; Filed, July 15, 1940; 9:46 a. m.]

Wage and Hour Division.

[Administrative Order No. 56]

APPOINTMENT OF INDUSTRY COMMITTEE NO. 14 FOR THE CONVERTED PAPER PRODUCTS INDUSTRY

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor, do hereby appoint and convene for the converted paper products industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

For the Public:

Wayne Lyman Morse, Chairman, Eugene, Oregon.
William E. Simkin, Philadelphia, Pennsylvania.
John A. Lapp, Chicago, Illinois.
Thomas L. Norton, Buffalo, New York.
Edgar M. Hoover, Jr., Ann Arbor, Michigan.
William John Wilgus, Ascutney, Vermont.
Tipton R. Snavely, Charlottesville, Virginia.
Joseph M. Klamon, St. Louis, Missouri.
William Haber, Ann Arbor, Michigan.

For the Employees:

Burt J. Mason, Chicago, Illinois.
Frank Grasso, New York, New York.
Ray Thomason, Richmond, Virginia.
John Sherman, Tacoma, Washington.
Earl Taylor, Toledo, Ohio.
Homer Humble, Mobile, Alabama.
Harriet Wray, Bronx, New York.
C. V. Ernest, Baltimore, Maryland.
Boris Shishkin, Washington, D. C.

For the Employers:

H. M. Treen, Ft. Wayne, Indiana.
A. R. Leiserson, Richmond, Virginia.
Norman Greenway, New York, New York.
Allen K. Schleicher, St. Louis, Missouri.
Vasco Nunez, Nashua, New Hampshire.
J. L. Coker, Hartsville, South Carolina.
F. R. White, New Hope, Pennsylvania.
Ralph Hayward, Kalamazoo, Michigan.
E. V. Johnson, Springfield, Massachusetts.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. As used in this order the term "Converted Paper Products Industry" means:

The manufacture of all products which have as a basic component pulp, paper or board (as those terms are used in Administrative Order No. 41 defining the Pulp and Primary Paper Industry) and the manufacture of all like products in which synthetic materials, such as cellophane, pliofilm or synthetic resin, used in sheet form, is a basic component.

Provided, however, That the manufacturer of the following shall not be included:

(a) Any product the manufacture of which is covered by a wage order of the Administrator relating to the Textile, Apparel, Hat, Millinery or Shoe industry or by an order of the Administrator appointing an industry committee for and defining the Pulp and Primary Paper, Carpet and Rug, or Luggage and Leather Goods industry.

(b) Any product, such as rayon, cellophane, etc., made from such pulp by a process which involves the destruction of the original fibrous structure of such pulp.

(c) Wall paper, roofing paper, insulation board, shingles or lamp shades.

(d) Newspapers, magazines, books, blueprints, photographs and other products in which graphic art is the exclusive medium through which the products function, provided, however, that the production of printed forms, stationery, blank books, and tables, other than the printing thereof in a job printing establishment, and the production of other products in the use of which graphic art is applied by the ultimate consumer of the products, shall be included within the converted paper products industry as herein defined.

3. The definition of the converted paper products industry covers all occupations in the industry which are necessary to the production of the products specified in the definition, including clerical, maintenance, shipping and selling occupations.

4. The industry committee herein created, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder, shall meet at the call of its chairman and shall proceed to investigate conditions in the industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said act are "engaged in commerce or in the production of goods for commerce", excepting employees exempted by virtue of the provisions of Section

13 (a) and employees coming under the provisions of Section 14.

Signed at Washington, D. C., this 8th day of July, 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-2920; Filed, July 13, 1940; 12:10 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and § 522.5 of Regulations Part 522, as amended, to the employers listed below effective July 16, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 22, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F. R. 4531), as amended, April 27, 1940 (5 F. R. 1586).

Glove Order, February 20, 1940 (5 F.R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE.

Grayson Full Fashioned Hosiery Mills, Inc., Independence, Virginia; Hosiery; Full Fashioned; 20 learners; September 18, 1940.

Randleman Full Fashioned Hosiery Mills, Inc., Randleman, North Carolina; Hosiery; Full Fashioned; 50 learners; September 18, 1940.

Royal Oak Hosiery Mills, Inc., Marion, Virginia; Hosiery; Full Fashioned; 50 learners; September 18, 1940.

Salem Full Fashioned Hosiery Mills, Inc., Salem, Virginia; Hosiery; Full Fashioned; 50 learners; September 18, 1940.

Townhouse Hosiery Mills, Inc., Chilhowie, Virginia; Hosiery; Full Fashioned; 50 learners; September 18, 1940.

Wadesboro Full Fashioned Hosiery Mills, Inc., Wadesboro, North Carolina; Hosiery; Full Fashioned; 50 learners; September 18, 1940.

Aintree Corporation, Fairfield, Illinois; Apparel; Athletic Shorts and Pajamas; 20 learners; October 1, 1940.

Beautee-fit Company, Inc., 860 South Los Angeles Street, Los Angeles, California; Apparel; Brassieres; 3 learners; October 24, 1940.

Bristol Frocks, Building No. 1, Bristol, Rhode Island; Apparel; Women's Cotton Dresses; 20 learners; October 24, 1940.

Chas. Guzy Mfg. Company, Wilkes-Barre, Pennsylvania; Apparel; Infant's Apparel; 10 learners; October 1, 1940.

Gem Garment Company, South Cedar Lane, Greencastle, Pennsylvania; Apparel; House Dresses; 35 learners; October 1, 1940.

J. H. Rudolph & Company, DeKalb, Illinois; Apparel; Skirts, Shirts, and Slacks; 5 learners (30¢ per hour); October 24, 1940.

J. H. Rudolph & Company, DeKalb, Illinois; Apparel; Skirts, Shirts, and Slacks; 28 learners (30¢ per hour); October 24, 1940.

Marathon Underwear Corporation, 958-60 South Los Angeles Street, Los Angeles, California; Apparel; Rayon Underwear; 4 learners; October 24, 1940.

Morgan Mfg. Company, 234 South Montebello Boulevard, Montebello, California; Apparel; Slacks & Blouses; 5 learners; October 24, 1940.

Norristown Dress Company, 525 West Marshall Street, Norristown, Pennsylvania; Apparel; Dresses; 30 learners; October 1, 1940.

Scotsmoor Company, Inc., Johnstown, New York; Glove; Knit Wool Gloves; 10 learners; October 24, 1940.

Julius Kayser & Company, 453 DeKalb Avenue, Brooklyn, New York; Glove; Knit Wool Gloves; 5 percent; October 24, 1940.

Julius Kayser & Company, 453 DeKalb Avenue, Brooklyn, New York; Glove; Knit Wool Gloves; 125 learners; October 24, 1940.

Signed at Washington, D. C., this 15th day of July 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-2933; Filed, July 15, 1940; 11:54 a. m.]

NOTICE OF ISSUANCE OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that a Special Certificate authorizing the employment of learners at hourly wages lower than the minimum rate applicable under Section 6 of the Fair Labor Standards Act of 1938 is issued pursuant to Section 14 of the said Act and § 522.5 (b) of Regulations Part 522 (4 F.R. 2088), as amended (4 F.R. 4226), to the employer listed below effective July 16, 1940. This Certificate is issued upon his representations that experienced workers for the learner occupations are not available and that he is actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. This Certificate may be canceled in the manner provided for in § 522.5 (b) of the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of this Certificate may seek a review of the action taken in accordance with the provisions of § 522.5 (b). The employment of learners under this Certificate is limited to the terms and conditions as designated opposite the employer's name.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

International Macaroni Moulds Company, 303 Third Avenue, Brooklyn, New York; Macaroni Dies; 1 learner; 12 weeks for any one learner; 22½¢ per hour; General Machine Shop Helper; October 22, 1940.

Signed at Washington, D. C., this 15th day of July 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-2934; Filed, July 15, 1940; 11:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 59-14]

IN THE MATTER OF INTERNATIONAL HYDRO-ELECTRIC SYSTEM, RESPONDENT

ORDER GRANTING REQUEST FOR CONTINUANCE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 12th day of July, A. D. 1940.

The Securities and Exchange Commission having on the 17th day of June, 1940, issued its notice of and order for hearing[1] for the purpose of enforcing the provisions of section 11 (b) (2) of the Public Utility Holding Company Act of 1935 with respect to International Hydro-Electric System as respondent in said proceeding, and having required said respondent to appear on the 16th day of July, 1940; and

International Hydro-Electric System having on the 11th day of July, 1940, filed its written and verified application for a continuance until October 23, 1940; and

The Commission having considered said application for continuance:

[1] 5 F.R. 2311.

It is ordered, That said application for continuance be granted to the extent that the hearing in this matter is continued until September 16, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2926; Filed, July 15, 1940; 11:19 a. m.]

[File No. 60-15]

IN THE MATTER OF BLAIR & CO., INC., SCHRODER, ROCKEFELLER & CO., INCORPORATED, EMANUEL & CO., A. C. ALLYN AND COMPANY, INCORPORATED, W. C. LANGLEY & CO., GRANBERY, MARACHE & LORD, JOINTLY AND SEVERALLY, RESPONDENTS

SUPPLEMENTAL NOTICE AND ORDER FOR HEARING UNDER SECTION 2 (A) (7) (B) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of July, A. D. 1940.

A notice and order for hearing[1] having been entered in this matter on June 7, 1940, providing for a hearing on July 22, 1940 to determine whether the above named Respondents or any one or more of them directly or indirectly exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of the Standard Power and Light Corporation as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that said Respondents or any one or more of them be subject to the obligations, duties, and liabilities imposed in said Act upon holding companies;

Standard Power and Light Corporation being a registered holding company of which Standard Gas and Electric Company is a subsidiary, as well as a registered holding company; and

It appearing to the Commission that the evidence adduced at the aforementioned hearing will have a bearing on whether the above named Respondents or any one or more of them directly or indirectly exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of the Standard Gas and Electric Company and the subsidiaries thereof as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that said Respondents or any one or more of them be subject to the obligations, duties, and liabilities imposed in said Act upon holding companies; and

It appearing to the Commission that the proceedings herein instituted by the above mentioned notice and order for hearing dated June 7, 1940 in substance is a proceeding to determine whether the above mentioned relationship exists with regard to not only Standard Power and Light Corporation but also the subsidiaries thereof; and for the purpose of clarifying, if need be, the nature of the proceedings herein;

It is ordered, That the above mentioned hearing, to be held at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, NW., Washington, D. C., at 10:00 a. m. on the 22nd day of July 1940, be held to determine whether the above named Respondents or any one or more of them directly or indirectly exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of the Standard Power and Light Corporation and/or the subsidiaries thereof as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that said Respondents or any one or more of them be subject to the obligations, duties, and liabilities imposed in said Act upon holding companies;

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the Respondents above named and to all other persons including the security holders and consumers of Standard Power and Light Corporation and Standard Gas and Electric Company and the subsidiaries thereof, and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 20th, 1940.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 40-2929; Filed, July 15, 1940; 11:19 a. m.]

[1] 5 F.R. 2497.

[File No. 70-93]

IN THE MATTER OF CALIFORNIA PUBLIC SERVICE COMPANY; WESTERN STATES UTILITIES COMPANY (PUBLIC UTILITY HOLDING COMPANY ACT OF 1935—SECTION 12 (C) AND RULE U-12C-1)

ORDER CORRECTING ORDER OF THE COMMISSION ISSUED JULY 1, 1940 UNDER SECTION 12 (C) AND RULE U-12C-1 OF THE PUBLIC UTILITY HOLDING COMPANY ACT

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of July, A. D. 1940.

The Commission having on July 1, 1940[1] entered an Order in the above-entitled proceeding granting an exemption from certain provisions of the Public Utility Holding Company Act of 1935 for certain sinking fund transactions concerning the bond issues of the above-entitled parties; said Order having been subsequently published as Holding Company Act Release No. 2157;

It appearing that the figure "2¼%" in the thirteenth line of said Order should be "4¼%";

It further appearing that said error was wholly clerical;

It is ordered, That said Order be, and it hereby is, amended by striking out the figure "2¼%" and substituting therefor the figure "4¼%."

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2925; Filed, July 15, 1940; 11:19 a. m.]

[File No. 60-15]

IN THE MATTER OF BLAIR & CO., INC.; SCHRODER, ROCKEFELLER & CO., INCORPORATED; EMANUEL & CO.; A. C. ALLYN AND COMPANY, INCORPORATED; W. C. LANGLEY & CO.; GRANBERY, MARACHE & LORD; JOINTLY AND SEVERALLY, RESPONDENTS

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of July, A. D. 1940.

A motion having been filed by Schroder, Rockefeller & Co., Incorporated, and Emanuel & Co, that the hearing herein be deferred from July 22, 1940, to a date not earlier than September 4, 1940; and

A motion having been filed by Blair & Co., Inc., for an indefinite postponement of said hearing subject to call by the Commission on reasonable notice to all parties;

[1] 5 F.R. 2516.

The Commission having heard oral argument thereon; and having given due consideration to the supplemental notice and order for hearing herein entered July 12, 1940;

It is ordered, That the hearing herein be and it hereby is postponed until August 5, 1940; and

It is further ordered, That the motion of Blair & Co., Inc., be and it hereby is denied.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 40-2927; Filed, July 15, 1940; 11:20 a. m.]

[File No. 70-113]

IN THE MATTER OF KENTUCKY UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of July, A. D. 1940.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered that a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on July 29, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 23, 1940.

The matter concerned herewith is in regard to the proposed purchase by Kentucky Utilities Company of the property of the Kentucky Electric Development Company, which property consists principally of transmission lines and distribution systems located in the central part of Kentucky and includes equipment, materials, supplies, automotive equipment, franchises, easements, and real estate. The said property was directed to be sold at public sale to the highest and best bidder by order of the Circuit Court of Jefferson County, Kentucky in receivership proceedings. The applicant's bid of $176,500 at the sale on February 5, 1940, was adjudged by the Circuit Court to be the highest and best bid.

The consideration for the purchase and sale will be the said $176,500 subject to credit for the amount of customers' deposits and the principal amount and accrued interest of bonds secured by lien on part of the property proposed to be acquired which may be assumed by the applicant.

The applicant has designated sections 9 and 10 of the Act and Rule U-7 to be applicable to said transaction.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2928; Filed, July 15, 1940; 11:20 a. m.]

[File No. 70-97]

IN THE MATTER OF CENTRAL U. S. UTILITIES COMPANY

ORDER CONSENTING TO WITHDRAWAL OF DECLARATION PURSUANT TO REQUEST OF DECLARANT

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1940.

Central U. S. Utilities Company, having filed with the Commission a request for the withdrawal of the following declaration:

Declaration pursuant to Rule U-12B-1 promulgated under section 12 of the Public Utility Holding Company Act of 1935 regarding a $10,000 cash advance on open account to Associated Maryland Electric Power Corporation, a wholly-owned subsidiary.

The Commission consents to the withdrawal of such declaration, and to that effect

It is so ordered.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 40-2930; Filed, July 15, 1940; 11:20 a. m.]